IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

James R. Hoffa

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	[redacted]
	:	
	:	NO. 11,989
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 24, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXVII

PAGES 6897 TO 7174

DEFT. COPY

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TWENTY-SIXTH DAY OF TRIAL

9:00 O'Clock, A. M.
February 24, 1964

(Thereupon, pursuant to adjournment from February 21, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Gentlemen, page 6556 in my record for Thursday is missing and I wonder if you would get me a copy of it.

COURT REPORTER SMITH: Yes, Your Honor.

THE COURT: And then there is a correction to be made on the pagination at page 6671; page 6671 should be page 6670 and page 6670 should be page 6671; in other words, the two pages are just reversed.

Yes, sir.

MR. SCHIFFER: May it please the Court, I have a motion I would like to address the Court on at this time.

THE COURT: Yes, sir.

MR. SCHIFFER: This motion, if the Court please, is directed toward the two telephone conversations allegedly made on October 8 and October 18 of 1962 between Mr. Partin, the witness, and Mr. James Hoffa, the defendant.

The defendants have filed a motion to suppress

Tk 1-2

evidence of recordings of telephone conversations and the prints thereof. The recordings of the telephone conversations are clearly inadmissible as we have conclusively shown that the government illegally failed to transmit a beep beep sound when recording an interstate telephone conversation without the knowledge of Mr. Hoffa.

However, our motion not only seeks to suppress the recordings themselves but also the fruits thereof, including any questions that might be asked of Mr. Hoffa on cross examination based upon information obtained as a result of said recordings.

For this Court has ruled, and we respectfully believe erroneously, that the defendants are not entitled to a hearing on the motion to suppress until after the defendants case is closed. As indicated in prior memoranda, we think this ruling is contrary to the teaching of Nardone against the United States, 308 U. S. 338 and the other cases.

However, if this Court is not to reconsider its previous ruling we think its error is greatly compounded for failure to turn over a transcript of the recording to Mr. Hoffa at this time prior to his testifying for now the government will have an opportunity to cross examine when he testifies. If the government has knowledge derived from recordings which it uses in its cross examination of Mr. Hoffa, it will mean the taint from the illegality will spread additional error in the record.

End 1

Furthermore, it is absolutely essential that the Defendant Hoffa know the content of the recordings in order that he may object to questions posed by the government that are based upon information derived from this illegal wiretapping.

Otherwise each and every question asked of the Defendant Hoffa by the government will be prima facie based upon the fruits of illegal evidence since the burden is upon the government to prove its evidence is untainted.

It is really shocking that the fruits of the government's activities are resting with the court. The Court has indicated that it will turn over those recordings at the proper time.

May we respectfully suggest Your Honor that the proper time is now. And the Court has no legal basis on otherwise for withholding these recordings from us.

In the Nardone casa, Your Honor, before I proceed with the Nardone case, the government's position has been set forth in their response to our motions to suppress the evidence. I again respectfully draw Your Honor's attention to the motions which are in the Court's file in this case which were made before Judge Gray in Nashville and specifically made by me in connection with the wiretapping evidence.

The record will indicate, Your Honor, unequovically that when I asked whether or not there was this evidence in filed motions the government poo-pooed all over the

courtroom that there was no such evidence and Judge Gray at that time stated that if I could show there was any illegal wiretapping he would give us an immediate hearing on the issue. But Judge Gray was satisfied with the representation made to him by the government representatives at that time.

Now we discover at this stage of the proceedings for the very first time during the course of this trial that there have been recordings of telephone conversations. So that whatever they told Judge Gray was false and it is palpably and proveably false. Are we then to permit the government representatives in this case to continue this fraud upon the Court or are the defendants to be required to stand idly by and permit anything to occur on the representation of the government representatives when they tell one judge in the same court one story and then they frankly come in and say that they do have the very things that we suspected in the very beginning and I wish Judge Gray had granted us a hearing and that the government had been truthful with Judge Gray and said that they had any recordings or any kind of recordings.

Insofar as the Nardone case is concerned, with respect to the second case, we believe that in keeping with the spirit of that decision of the United States Supreme Court it lays down what nobody can object to as being the cardinal rules of justice as it applies to this entire section

of the federal communications act.

And may I quote two or three sentences from that decision, Your Honor, which I believe are most enlightening in this situation particularly and I want to point out if I may that in the Nardone case no government representatives had had the temerity or the sheer gall to get up in the United States District Court and tell the judge in response to a motion made by a defendant in searching for the legal wire recordings, that they did not exist and then appear at the trial and say they did exist and that they had them and they were turning them over to the court because if that existed I'm sure the Supreme Court in that case would also have taken note of that kind of illegal activity. This is a fraud not committed merely upon the defendants, Your Honor, it is fraud upon the court what has transpired here, but even in a case like the Nardone case the Court has laid down rules of conduct of what must be observed as basic justice in a case.

To interrupt the course of the trial for such auxiliary inquiries with respect to those taps impede the momentum of the main proceeding and breaks the continuity of the jury's attention. Likewise, it would result in tenuous claims sufficient to justify the trial courts indulgence of inquiry into the legitimacy of evidence in the government's possession so to read a congressional prohibition against

the availability of certain evidence would be to subordinate the need for rigorous administration of justice and to lessen the potential and to be hoped for abnormal disobedience of the law.

Therefore claims that taint attaches to any portion of the government's case must satisfy the trial court with their solidity and not be merely a means of any government administration.

And if such claim is made after the trial is underway the Judge must likewise be satisfied that the accused could not at an early stage have had adequate knowledge to make the claim.

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k 3 fol.

Your Honor, this is our situation here and it's alluded to in the Nardone case.

We had no knowledge, because we relied, as Judge Gray did, upon the representation made to the Court by the government representatives. For the first time during the course of this trial we have been apprised, as has the Court, that there are these very recordings and transcripts and illegal wire taps and we feel that in all due justice to all of the defendants, as well as Mr. Hoffa, on the examination and cross examination, that we are certainly entitled at this time to show the taint and the illegality of a substantial portion of the government's case on trial here.

THE COURT: All right. Do you have a written motion in this respect, Mr. Schiffer?

MR. SCHIFFER: I have a memorandum which incorporates, your Honor, my remarks here and I trust I may turn them over to the Court and I will give a copy to the government and I certainly want to stress to the Court, if I may, that we have now reached that point in the progress of this case where in line with the argument that we have made on Page 70 of the transcript, where Mr. Neal was assuring the Court while making loud protestations that there is no improperly obtained evidence and that there are no wire taps and no illegally obtained evidence, that was July 23rd of 1963 from Page 51 onward and at Page 70 before Judge Gray in

Nashville there was, "The government represents to this Court, it represents to all defense counsel, that the government has nothing in its possession, no evidence obtained by any illegal means. It represents that it has no fruits of any evidence obtained by illegal means."

Now, may I simply pose this one question for the Court's consideration because this now becomes vital:

How are we to know as defense counsel and the defendants themselves to what extent the illegality of these wire taps and these transcripts really extend without being shown these transcripts?

We cannot leave it to the judgment of the government any more after they have made a fraud upon the Court once before on this very issue. We cannot leave it to their judgment to decide for us, for the defense, as to whether or not they are illegal.

We believe very firmly, your Honor, and so respectfully urge, as much as we can, that at this time the trial be halted, at least to go through these matters which we inquire of now, and we think justice would be served thereby.

THE COURT: All right. All right. Well, I believe, gentlemen, the proper thing for the Court to do at this time is to take this motion under consideration until I have had an opportunity to consider it carefully.

I would not permit any cross examination by the government with reference to the two dates mentioned and the two calls mentioned until I have had an opportunity to consider this motion and rule upon it.

MR. SCHIFFER: It raises the further question, if your Honor please, now that the government now for the first time during the course of this trial has indicated they did have some recordings, then we make a respectful demand through the Court, and we can't make it directly to the government any more because I can't take their representations as being true, so I must only make it through the Court and ask the Court to inquire of the government counsel and force them to the point where they will tell the truth to the Court, we ask that, we move most respectfully that any recordings in possession of the government as it pertains to this case or any of the defendants at this time be stated for the record and to the Court, not to the defense counsel alone but to the Court and defense counsel whether or not in truth they have other similar recordings or any other results of any other types of electronic device recordings.

THE COURT: All right. Well, any motion in that respect, if not heretofore already reduced to writing, should be reduced to writing.

MR. SCHIFFER: Your Honor, there is just one further request I did want to make with reference to the

exhibits in evidence.

THE COURT: Yes, sir.

MR. SCHIFFER: Reference was made during the course of the trial to the two FBI statements of Carl Fields. I ask that those two statements now be put in evidence on behalf of the defendants and the FBI statements, two statements of Patrolman Walker, likewise be placed in evidence.

THE COURT: I was under the impression, Mr. Schiffer, that those were put in evidence at the time of the examination of--

MR. SCHIFFER: (Interposing) Your Honor, I checked the record and the one that is in evidence is an affidavit of Carl Fields and that is Exhibit No. 4 and it is found at Page 1764, but all of the others were alluded to but not placed in evidence as of yet, and I ask your Honor's indulgence to permit us to place them in evidence at this time.

THE COURTL I am just trying to refresh my own recollection in the examination last week of the Witnesses Sheridan and Sheets; I was under the impression that the defense presented to one or the other of those gentlemen the FBI statements which the defense had received and had them identified and placed in the record, but we will certainly check that and take whatever steps are necessary.

MR. SCHIFFER: Thank you, your Honor. If they

are not in evidence may we consider them marked in evidence?

THE COURT: Let's be sure we locate them and be sure what we are referring to before we admit them.

MR. NEAL: Your Honor, we just want to respond to Mr. Schiffer's statement. Any recordings of the Defendant Hoffa are not subject to be produced to the Defendant Hoffa, it is quite clear under the Jencks Act and under the cases the defendant is not entitled to his own statement.

THE COURT: Aren't we going into an argument of a matter that the Court has ruled should properly be taken up later?

MR. NEAL: Yes.

THE COURT: Until the Court can consider this motion filed this morning.

MR. NEAL: With exception of limitation that we can't cross examine about these two matters. The cases say the defendant is not entitled to his own statement to see how far he can go off of it without being brought back on cross examination.

THE COURT: The Court has made a ruling that it feels is proper in this respect at this time and has not had an opportunity to consider the motion that has been made here this morning.

MR. NEAL: We have some rebuttal witnesses, some of them will come from a distance. We would like to know,

get some estimation of the defendants as to the length of their case remaining and have them here to go right forward.

THE COURT: Well.

MR. NEAL: If that is possible.

THE COURT: Well, any estimate of time in this case is about as unreliable--I mean if you could estimate, all right, if you can't--

MR. HAGGERTY: (Interposing) Well, it's a most difficult thing to estimate.

THE COURT: No one knows how long anyone will be examined, no one knows how long anyone will be cross examined.

MR. HAGGERTY: I would say that we would probably finish our proof this week, I really couldn't go any closer than that.

THE COURT: Well, all right.

MR. NEAL: Well, we will have them here.

MR. SCHIFFER: Your Honor, may I just interpolate for the moment in view of Mr. Neal's statement, we are not only moving under the Jencks Act, we are moving to the general jurisdiction of this Court to prevent an injustice against these defendants.

THE COURT: I understand your position, Mr. Schiffer.

MR. HAGGERTY: Your Honor, I have a motion which I ask your Honor to dispose forthwith. It is a motion to

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produce a copy of sealed transcript. I speak of the sealed transcript, your Honor, that was taken at a secret session on February 6, 1964, it would be Pages 3512 to 3535 of those proceedings and I ask for it under these conditions.

End Tk 3
Tk 4 fls.

There is no need to keep this secret transcript from the attorneys in the case because --

THE COURT: (Interposing) Yes, I think you are correct in that, Mr. Haggerty.

MR. HAGGERTY: Only to the attorneys, your Honor.

THE COURT: Yes, sir. Yes, sir.

MR. HAGGERTY: That is what I am asking.

THE COURT: I would think you are correct in that. Unless the government cares to be heard on that, I would --

MR. HAGGERTY: (Interposing) I'm addressing the Court, Mr. Neal. On the secret transcript of the secret proceedings to be handed to the attorneys for the purpose of gaining information thereby for the purpose of this case and to make certain motions.

THE COURT: I think that's correct.

MR. HOOKER: We're just not familiar with the transcript that was being referred to, your Honor.

MR. HAGGERTY: Neither am I familiar with it but I was present.

THE COURT: It was a hearing in the nature of a chambers hearing and the Court would see no reason why those should not be made available to counsel. Counsel were all present and know exactly what went on and they have a right to refresh their recollection about what went on by referring to the record itself.

MR. HAGGERTY: And counsel should protect the secrecy of the proceedings just limited to counsel and their clients.

THE COURT: Yes, sir. Yes, sir. That will be granted, Mr. Haggerty.

MR. HAGGERTY: May I inquire is that written at the present time?

THE COURT: I understand that it has been and it has been deposited by the reporter with the Clerk and the Clerk will therefore get the copies and distribute them among counsel.

MR. HAGGERTY: Can that be done this morning, your Honor?

THE COURT: Yes, sir, we will do that this morning.

MR. BRANSTETTER: May it please the Court, I have a motion along with memoranda that I would like to submit to the Court. I will not argue it. It deals with a motion to dismiss the indictment because the government's calling of certain defendants before the grand jury knowing that they were to be or possibly be defendants. I am submitting a memorandum that will cover all of the defendants involved in the motion and each other, other than the Defendant Hoffa, is submitting a separate motion, but not a separate memoranda because they all relate to the same matter.

THE COURT: All right. Well, the government will

file a response to that by tomorrow or otherwise advise the Court as to why --

MR. SCHIFFER: (Interposing) May we file individually, your Honor, in support of that motion with respect to these defendants?

THE COURT: Yes, sir. The government will file in response by tomorrow or otherwise advise the Court why further time is necessary to respond.

MR. SILETS: Your Honor, I'm filing a similar motion to dismiss the indictment with the Clerk now. It is entitled, "Defendant Dorfman's Motion to Quash and Dismiss the Indictment Because He Was Illegally Called Before the Grand Jury."

In addition, I'm filing a separate motion to suppress the grand jury testimony. I'm serving copies upon the government.

Mr. Hooker, good morning.

MR. HOOKER: Good morning.

MR. SILETS: Mr. Neal, good morning.

MR. NEAL: Morning.

MR. SILETS: May it please the Court, I also have this morning a motion, too, of the Defendant Allen Dorfman for a mistrial which I am filing, written motion, which I am filing with the Court and serving a copy upon the government. Without going into the exact details of the motion for mis-

trial, it relates to matters which occurred on page 5714 and page 5715 of the transcript where Mr. Dorfman was cross examined by Mr. Neal and certain inquiry was made which in itself is prejudicial. I have attached my affidavit to explain the nature of the prejudice and in my prayer for relief I ask the Court that the Court declare a mistrial as to Mr. Dorfman in Count 4 of the indictment.

I specifically request the Court, however, not to make any effort to instruct the jury concerning these comments by the prosecution on the basis that to do so would merely highlight again the error and the mistake of the prosecution in making the inquiry.

However, that is in the possibility that the Court should deny the motion for a mistrial. However, of course, I first request the Court to grant the motion for a mistrial.

THE COURT: The government will likewise respond to these motions in writing tomorrow or otherwise advise the Court as to whether additional time is necessary in order to respond.

MR. SILETS: May it please the Court, of the voluminous telephone records turned over to the defense by the government through the good offices of Mr. Dale, the Clerk of the court, I would assume that there are somewhere between six and ten thousand of these exhibits, we have

examined in great detail the mark sense cards relating to the Andrew Jackson Hotel which were subpoenaed by the government from the telephone companies.

Specifically great emphasis was placed upon our examination in the office of the Clerk under the supervision of the Clerk to ascertain what phone calls were made by Mr. Partin. We have been able to locate 94 such phone calls made through the Andrew Jackson Hotel. I would like the Clerk to mark these for identification only.

THE CLERK: No. 202, your Honor.

(Telephone company records referred to above were marked for identification as Exhibit No. 202.)

MR. SILETS: And I would like to point out to the Court that in the exhibits introduced by the government which I believe are 94 and 99 through 106 or No. 107, in any event, those are the exhibits which are the hotel bills of Mr. Partin at the Andrew Jackson Hotel during the period in question, that there are shown thereon a total of 105 long-distance telephone calls made by Partin and charged to his account at the Andrew Jackson Hotel. This exhibit now marked by the Clerk this morning shows a total of 94 such calls. There are 4 in evidence. That means that there are not available, not turned over to the defense, 7 phone calls, 7 mark sense cards representing long-distance phone calls made by Mr. Partin during the period in question. Now, we call upon the govern-

ment to turn over those 7 additional cards.

THE COURT: Well, if the government has them, they should do so.

MR. NEAL: Well, now, your Honor, since Mr. Silets is making a record here we are prepared to put government attorney in charge of the records on the stand to testify that he has turned over all the records we have. Since we are making a record. If they want to call him, we will put him on the stand.

THE COURT: No, let's proceed, gentlemen.

MR. SILETS: Now, your Honor, my next motion is a renewal of a motion I have made previously relating to the grand jury testimony of Mr. Partin. I have previously filed a brief with the Court indicating to the Court when specific need has been established to indicate the time and place for the turning over of grand jury testimony of a witness called by the government.

I think I had cited to the Court Gordon versus United States, Herzog versus United States, and Herron versus United States.

Now, your Honor, if the Court will recall the testimony of Mr. Partin, he testified that he had taken the Fifth Amendment before the grand jury and we have shown and particularized a need for that grand jury testimony inasmuch as he has also admitted the fact that at all times or at

least he has alleged the fact that at all times he was working for the government and as such would have no need to claim the privilege.

End 4
5 fls

That, therefore, is testimony before the Grand Jury that was inconsistent with his testimony here and under the cases cited we request that the Court direct the government to turn over to the defense the Grand Jury testimony of Mr. Partin.

THE COURT: All right. The Court will make the same ruling in that respect and the government will respond accordingly.

MR. SILETS: Now, Your Honor, I am filing with the Court a memorandum of law concerning the limits of any inquiry on cross examination and impeaching the testimony by a witness into the interest or bias of a witness so far as potential or pending indictments are concerned.

I served a copy of this memorandum upon the government and if I may, Your Honor, I would like to read this to the Court.

THE COURT: Well, let me see it just a moment. I believe it would be better if the Court were permitted to study the memorandum during the first recess this morning and hear argument, if necessary.

MR. SILETS: All right, Your Honor. I wanted to point out although this is a state case the activities involved were both with the state and federal authorities, which actively cooperated together and the case stands, the cases stand for the proposition that we should be allowed to

introduce evidence or make inquiries for cross examination about the motive or the promises made to the witness to determine whether he in effect was being--, to determine, in fact, whether his testimony was being purchased either by the state or the federal government or by them acting jointly.

THE COURT: All right.

MR. HAGGERTY: There is one more matter, Your Honor, and that is with reference to a subpoena that was served on Mr. Robert S. Urdahl.

THE COURT: Well, Mr. Haggerty, the Court--

MR. HAGGERTY: (Interposing) The Court filed a motion to quash. Now, I say, may it please the Court, that we have no investigative agency comparable to the Federal Bureau of Investigation, that follows, but we receive information from various sources.

I have found that the government witnesses or witnesses connected with the government refuse to talk, so when I receive information I have nothing left to do but serve a subpoena.

I have certain information in reference to Mr. Urdahl. I don't care anything about his records except if he has a recording or transcript of recordings that he bring those, otherwise I am not concerned with any of his records but I do have information that that is true.

Now, my information may be false but I would be

derelict in my duty if I didn't act upon it. So, therefore, I want Mr. Urdahl here in compliance with this subpoena to testify orally. I have several questions which are of great import to the defense of Mr. Hoffa to inquire of and all I ask is if he has a recording or if he has a transcript of recording that he bring those, other than that the rest of it, the correspondence and so forth, may be left out.

THE COURT: All right. Now, again the Court has been unable to locate in the court file the subpoena or a copy of the subpoena. I do have the government's motion in that regard but I haven't been able to find a copy of it.

MR. HAGGERTY: I think the government has quoted correctly in their motion to quash the subpoena, Your Honor.

THE COURT: This motion, by the way, was handed to the Court without being filed. If the clerk would please file this and return it to the Court.

Well, the Court will want to have the subpoena itself made part of the record in the case before acting upon the motion.

MR. HAGGERTY: I might say that under my statement I am modifying the subpoena, Your Honor, in view of recent information that I received.

THE COURT: All right. Very well. Gentlemen, with regard to subpoenaes to quash, there is a petition, rather, in regard to a petition to quash subpoenaes, there

is a petition to quash a subpoena against one Douglas Partin.

The Court is of the opinion that that petition to quash should be--

MR. HAGGERTY: (Interposing) May I--, pardon me--

THE COURT: (Interposing) Should be sustained, not only because of the scope of the subpoena itself but also the subpoena has been modified so that it really is no longer a subpoena duces tecum but rather it orders the person subpoenaed to appear and to produce certain records. This is really a motion to produce against a witness rather than a subpoena.

MR. HAGGERTY: May I save time?

THE COURT: Yes, Mr. Haggerty.

MR. HAGGERTY: Mr. Marvin Berke contacted Mr. Hutcheson, I believe his name is, in reference to Douglas Partin, Mr. Birch, Tucker and one other that I do not recall, one other additional name, Simpson, Sidney Simpson, and it was agreed between Mr. Marvin Berke and Mr. Hutchison inasmuch as these witnesses subpoenaed, contrary to our information, had no recordings or knowledge of the taking of recordings and it was agreed between them that these subpoenaes may be quashed.

THE COURT: All right, sir. Now, gentlemen, upon Saturday there was filed with the Court an offer of proof on the witness Otis C. Tynes. That offer of proof may be

filed as the next exhibit. I believe that is the procedure we have followed, and will be Exhibit No.--

MR. DALE: (Interposing) 203.

(The offer of proof referred to above was marked Exhibit No. 203 for identification only.)

THE COURT: The Court is of the opinion that the matters set forth in the offer of proof are irrelevant, incompetent and immaterial and would not be proper subjects of proof and, therefore, the objection to that proof should be sustained.

An offer of proof was made on the witness J. D. Albin, likewise upon Saturday and that that will be filed as Exhibit 204.

(The offer of proof referred to above was marked Exhibit No. 204 for identification only.)

THE COURT: The Court is of the opinion that that offer of proof likewise sets forth matters that are irrelevant, incompetent and immaterial and that further proof of those matters would not be proper.

Exhibit No. 205 is the offer of proof on Rena Mae Booth. That may be filed as Exhibit No. 205 with a like ruling of the Court on the ground that that testimony would be irrelevant, immaterial and incompetent.

(The offer of proof referred to above was marked Exhibit No. 205 for identification only.)

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Tk 6 fol.

THE COURT: Now, gentlemen, the Court has considered further the matter of the number of witnesses that may be used of a cumulative nature.

Rule 16 of the rules of this court provides that not more than three witnesses may be called to impeach or sustain the character of any party or any witness in a case. And the rule proceeds further then with regard to other types of cumulative evidence.

There have been a total of six character witnesses seeking to impeach the character of the Witness Partin. That being Witnesses Tynes, Booth, Smith, J. D. Lewis, J. D. Albin, Hoyt Tillman.

The Court is of the opinion that having extended the rule to permit a total of six, that further testimony of that nature would be wholly cumulative and should not be allowed.

MR. BRANSTETTER: May it please the Court, we had read the rule and had understood that at least that it should be permitted three to each defendant. We except to the Court's ruling. We think it may be unreasonable.

THE COURT: All right.

MR. BROWN: As to all defendants?

THE COURT: Yes, that may stand as to all defendants.

MR. SILETS: Your Honor, may I also state in addition to Mr. Branstetter's ground I feel the imposition of such a rule is violative of the due process laws of the Fifth Amendment.

MR. GRADY: Point of inquiry, your Honor, do I understand your Honor's ruling to preclude asking about any knowledge they may have of character on cross examination also?

THE COURT: Well, further character witnesses, the Court is of the opinion would be entirely cumulative.

MR. BRANSTETTER: If the Court please, my reference was to the Fifth and Sixth Amendments.

THE COURT: Yes, sir.

MR. SILETS: May that stand for all defendants?

THE COURT: Yes, sir. Now, gentlemen, in view of the record made up to this time by the defendants in placing and in seeking to place before the jury what the Court believes to be wholly irrelevant, immaterial, and incompetent testimony upon the issue of impeachment, before further impeachment witnesses may be examined before the jury, the defendants will be required to make an offer of proof of the impeachment witness in order that the Court may have an opportunity to properly pass upon the admissibility of the testimony in the absence of the jury. All right, are we ready to proceed?

MR. SCHIFFER: Your Honor, in keeping with the rules that your Honor has just made, I believe your Honor reserved on Friday reference to William Reynolds?

THE COURT: Yes. The Court is of the opinion

that the objection to that testimony should be sustained.

MR. SCHIFFER: Well, your Honor, with reference to Mr. Reynolds, may I point out to the Court that Mr. Reynolds actually goes to the factum of the indictment. He is an impeaching witness who relates precisely to what the star witness Partin had in his mind and what he was going to testify and the fact that he was getting a reward from the government for his testimony. And we believe, your Honor, that certainly is material and on that point may I refer to a case which I think your Honor will find very interesting, State against Curcio (spelling) C-u-r-c-i-o, it is found in 129 American Reports Second 871. It is a New Jersey case in the last reporter and at page 873 --

THE COURT: (Interposing) I do not have access to the report you are referring to, Mr. Schiffer. Do you have any other citations?

MR. SCHIFFER: A photostat of the case. I have a photostat of the case. I have just one sentence that I wanted to read.

MR. SILETS: It is in my brief I handed in.

THE COURT: Yes, sir.

MR. SCHIFFER: And that is the story which Jackson, a witness for the prosecution, the story which Jackson related was noticeably consistent and for an elderly man his memory of events that transpired for the relationship

of the defendant was remarkable. In view of this it was especially important to the defense to thoroughly test the witness' credibility and because of his own involvement to reveal whatever interest he might have in a conviction of the defendants. In brief, did he buy his peace from the prosecution?

That is the real question.

THE COURT: Do you have by any chance a copy of the opinion itself that the Court might see?

MR. SCHIFFER: This is the opinion. I will be very happy to hand it up to the Court. It is a photostatic copy.

THE COURT: I would appreciate having that and I will consider your question further as to that respect.

MR. SILETS: Your Honor, getting back to your Honor's voir dire examination or at least a prima facie showing after this kind of testimony may I take a very strong exception to the Court's ruling as this in effect requires the defense to have a preview of each and every witness so that the government can ascertain what questions it will ask in cross examination and may it please the Court, then ascertain precise details of the testimony.

May I suggest to the Court that the proper manner is for the defense to put on its witness[illegible]es in the ordinary course of trial and if any par[illegible]ticular question or

answer is objectionable that the objection be made if the government sees fit and if the answer has been made and the Court sustains the objection that it be stricken. This is the way every lawsuit is tried.

But to require the defense to come in in advance and say now our witness is going to say this and then recite an entire story as to what the witness is going to do, this is completely violative of every right given to the defense under the Constitution, and I take very strong exception to the Court's ruling on this.

THE COURT: All right.

MR. BROWN: The Defendant King excepts and joins in the objection to the Court's ruling on the exception.

MR. SCHIFFER: May I just note for the record with the Court that with reference to Mr. Reynolds I have another witness who was present during the conversation and our offer of proof between Reynolds and Partin, and Partin's statements will corroborate the statements Partin made to Mr. Reynolds. I would believe that the evidence goes to the very heart of this entire case that Mr. Partin was buying his peace and had a deal worked out with the government to commit perjury.

THE COURT: All right.

MR. BRANSTETTER: May it please the Court, the Defendant Campbell joins in the objection just made by Mr.

Silets with reference to the calling of witnesses and demonstration of a preview in advance of their testimony.

THE COURT: All right.

MR. BERKE: If your Honor please, just very briefly, the Court will recall on a number of witnesses that we introduced --

THE COURT: (Interposing) Mr. Berke, just one moment before you take up another matter, let me check my notes here on a matter.

MR. BERKE: Yes, sir.

THE COURT: All right, Mr. Berke.

MR. BERKE: If your Honor please, first before I get into this matter I want to call the Court's attention that we want on behalf of the Defendant Hoffa to join in the exceptions filed by Mr. Silets and also all objections and exceptions that have been presented to the Court this morning. So there will be no doubt but what the Defendant Hoffa is preserving his exceptions to the Court's ruling on these matters.

MR. GRADY: May that apply to all defendants?

THE COURT: Yes, that may apply to all defendants.

MR. BERKE: If the Court please, the Court will recall on a number of witnesses that we introduced last Friday the Court did permit the witnesses to testify as to certain matters but cut us off on a number of matters. We have only

filed offers of proof as to three witnesses which the Court has ruled on today. We would like permission and given a reasonable time to file additional offers of proof for the following witnesses which did testify but were not permitted to go into the other matters on which we did ask the Court at a later time to bring in proof. The Court said 4:30. But we got tied in on some other matters. Those witnesses are: Ann Smith, Edwin Stevick.

THE COURT: Edwin who?

MR. BERKE: Stevick (spelling) S-t-e-v-i-c-k, Debbie George, Lester Bloomenstiel, Prentice H. Moak, and Hoyt Tillman.

End 6
Tells

I believe Mr. Haggerty already entered an offer of proof as to Mrs. Partin, who decided she would not take it, but we may want to file a further offer of proof in behalf of Mrs. Partin also.

THE COURT: Well, of course, file what you feel is proper in this respect; the Court will have to have an opportunity to study the record as to the propriety of further offers of proof upon these witnesses.

MR. BERKE: May we have until sometime tomorrow to prepare those, Your Honor?

THE COURT: Yes, sir.

MR. BERKE: Thank you.

MR. BERKE: All right. Are we ready to call the witness and the jury?

MR. NEAL: The government still has Lester Bloomenstiel reserved for cross examination, Your Honor, there will be a few more hours; we have some interesting information, I think.

THE COURT: All right, all right. Call your next witness and call the jury.

MR. NEAL: Your Honor, before the jury comes back in could we have an understanding where we are now in the defense proof? We have gone along with a certain procedure until Mr. Haggerty asked permission and Mr. Berke asked permission to vary this for Friday because of the bunching

here of certain witnesses who wanted to get out of town.

The government agreed to that but shouldn't we go back to our orderly procedure now at this point?

MR. SILETS: May it please the Court, Your Honor said there would be some flexibility in the order of proof. I only have two witnesses, both of them are available in the courtroom, they will be very short.

THE COURT: All right. Well, let's proceed that way.

MR. NEAL: Then, as I understand the proof will return to Mr. Berke, is that what is contemplated?

MR. SILETS: I think Mr. Branstetter--

MR. BRANSTETTER: (Interposing) I would be calling Mr. Fitzsimmons, who was here once before.

MR. NEAL: With those three witnesses then all other defense have rested?

MR. BRANSTETTER: May it please the Court, the government jumped from one count to another count and back and forth. I'm not dosing my case, unless the Court orders me to do so, prior to argument to the jury.

THE COURT: Well, let's proceed in as orderly a manner as we can but I do want to give the defense discretion in this regard. May we have the jury returned?

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case

will be the truth, the whole truth, and nothing but the truth, so help you God?

MR. CARLISLE: I do.

MR. DALE: Have a seat.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

THE COURT: Good morning, ladies and gentlemen of the jury. As we begin this sixth week of the trial may I again assure you of the appreciation of all for the service that you have been called upon to perform. That appreciation exceeds anything that you might imagine.

May I likewise assure you that all parties concerned continue to thank and to work constantly to use your services as efficiently as requirements of a fair and impartial trial will permit.

MR. BERKE: May it please the Court, I have been trying to check some of the exhibits to be sure that most of the exhibits that have gone into evidence have been seen by the jury, and, as I recall, this one exhibit was not seen by the jury. I would like to pass it to the jury. That is the note of Mrs. Partin.

THE COURT: Well, let the Court see what the matter is.

MR. NEAL: That is not in evidence, Your Honor.

MR. BERKE: Yes, Your Honor, that is in evidence.

THE COURT: This was filed for identification purposes only.

MR. BERKE: Just a minute, Your Honor, refer to the record.

THE COURT: Well, I will check back against the record on it and see.

MR. SILETS: Your Honor, this witness, Mr. Carlisle, had been in the courtroom but he is a very short witness and I have an agreement with the government that they will waive the exclusion rule.

BRAD CARLISLE,

a witness called at the instance of the Defendant Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, sir?

A Brad Carlisle.

Q Where do you reside, Mr. Carlisle?

A Nashville.

Q What is your occupation, sir?

A A reporter for the Nashville Banner.

Q And were you so employed by the Nashville Banner in the year 1962?

A Yes.

MR. BERKE: Yes, Your Honor, that is in evidence.

THE COURT: This was filed for identification purposes only.

MR. BERKE: Just a minute, Your Honor, refer to the record.

THE COURT: Well, I will check back against the record on it and see.

MR. SILETS: Your Honor, this witness, Mr. Carlisle, had been in the courtroom but he is a very short witness and I have an agreement with the government that they will waive the exclusion rule.

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BY MR. SILETS:

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A Brad Carlisle.

Q Where do you reside, Mr. Carlisle?

A Nashville.

Q What is your occupation, sir?

A A reporter for the Nashville Banner.

Q And were you so employed by the Nashville Banner in the year 1962?

A Yes.

Q As a matter of fact, you have been covering this trial, too, from this courtroom?

A Yes.

Q Did you cover the case entitled the United States verus James R. Hoffa and Commercial Carriers?

A Yes.

Q Did you write stories which were published in your newspaper concerning that trial?

A Yes, sir.

Q Did you write stories before the trial started?

A Yes, sir.

Q And after the trial ended as well, is that true?

A Yes, sir.

Q How many editions of your newspaper are published in the Middle District of Tennessee?

A Four.

Q And were they widely circulated during the year 1962?

A Yes, sir.

Q And do you know what the circulation was approximately?

A No, sir, something like a hundred thousand or so.

Q Now, to your knowledge, Mr. Carlisle, was the panel of prospective jurors published in your newspaper, jurors in the Hoffa case in Nashville?

A I believe they were.

Q And, to the best of your recollection, was that before the trial actually began?

A About that time.

Q And, as a matter of fact, was it not published on the first day of trial as well?

A I don't recall then.

Q Well, let me show you a clipping from your newspaper dated October 22, 1962, and on Page 1 is a caption, "Teamster Boss goes on Trial by Brad Carlisle", and continued on to the second page.

Will you look at that and see if that is the story you wrote and that was published in your newspaper on or about October 22, 1962.

A Yes, sir.

Q Now, on Page 2 on the reverse side, to you see a list of the 88 veniremen, that is, all of the people summoned to be examined for jury duty?

A Yes, sir.

A Yes, sir.

Q Now, I hand you an excerpt, which is marked--, I'd like the clerk to mark this.

MR. HOOKER: Could we see the other, Mr. Silets?

MR. DALE: Do you want this next?

MR. SILETS: Yes, that is next.

MR. DALE: 206.

(The clipping referred to above was marked Def. Dorfman's Ex. No. 206 for identification only.)

MR. SILETS: May the record show that the government is examining the document, Your Honor?

BY MR. SILETS:

Q Now, Mr. Carlisle, will you compare this excerpt, which is marked Exhibit 206, and see that it is identical with the list of 88 veniremen shown in your article.

MR. HOOKER: There is no question about it, Mr. Silets.

A I believe they are the same.

MR. SILETS: All right. May we offer the excerpt, Your Honor, in evidence?

THE COURT: All right. Without objection it may be admitted.

MR. HOOKER: No objection.

(The newspaper excerpt previously marked Def. Dorfman Exhibit No. 206 for identification was received in evidence.

BY MR. SILETS:

Q Mr. Carlisle, what does that exhibit 206 reflect precisely?

A The 88 prospective jurors for the Hoffa trial in Nashville.

Q And that was published on October 22nd, the first day of trial?

A Yes, sir.

Q And that contains names as well as addresses, is

Q Now, following that, sir, the jury was actually picked, is that correct?

A Yes, sir.

Q Now, I hand you what is an excerpt from the Nashville Banner of Friday afternoon, October 26, from the front page and see if you can recognize that document?

A Yes, sir.

Q And what does reflect, is that a story written by you, sir?

A Yes, sir.

Q And that was also widely published and circulated in the Middle District of Tennessee?

A Yes, sir.

Q On or about the 26th of October when the jury was actually picked?

A Yes, sir.

MR. SILETS: Will you mark this?

MR. DALE: Do you want that 207?

MR.SILETS: No, this is 207.

MR. DALE: 207, Your Honor.

(The newspaper clipping excerpt referred to above was marked Defendant Dorfman Exhibit 207 for identification only.)

BY MR. SILETS:

Q Mr. Carlisle, I show you what has been excerpted from that article of October 26, 1962, and ask you to compare that with the original and see if it is a correct copy.

7A A Yes, sir, these are the same.

Q All right. Now, can you identify what that is an excerpt of, what that excerpt represents?

A It represents the jurors on the trial.

MR. SILETS: May I offer that in evidence, Your Honor,as defendant's exhibit 207?

THE COURT: Without objection it may be admitted.

(The newspaper clipping excerpt previously marked Def. Dorfman Exhibit No. 207 for identification was received in evidence.)

BY MR. SILETS:

Q Now, that is a list of the actual jurors sitting on the trial?

A Yes.

Q As well as their addresses and their occupations?

A Yes, sir.

Q And that was also widely circulated in the Middle District of Tennessee?

A Yes, sir.

Q By the way, how much does it cost to buy one of your newspapers?

A A dime.

Q Anybody with a dime would have that list?

A Yes, sir, I guess.

MR. NEAL: We object to that, Your Honor, anyone who has a dime would have that paper, there might be some people who read the Tennessean rather than the Banner.

MR. SILETS: Well, that is our next witness.

BY MR. SILETS:

Q Now, to the best of your recollection and your knowledge was the names of these jurors reported on the radio and the TV?

MR. NEAL: We object to that, Your Honor.

THE COURT: Well, if he knows.

A I really don't know.

MR. SILETS: I have no further questions.

MR. HOOKER: Stand aside.

(Witness excused.)

MR. SILETS: May we call Miss Nellie Kenyon of the Nashville Tennessean?

Your Honor, after Miss Kenyon testifies I'd like to pass these documents to the jury.

MR. DALE: Raise your right hand, please, ma'am. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MISS KENYON: I do.

MR. DALE: Have a seat, ma'am.

MR. SILETS: Again, Your Honor, I believe the government has agreed to waive the exclusion rule because Miss Kenyon has been in the courtroom.

THE COURT: All right.

MISS NELLIE KENYON,

a witness called at the instance of the Defendant Dorfman, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SILETS:

Q Will you state your name, please?

A Nellie Kenyon.

Q Miss Kenyon, would you speak up so everybody can hear you?

A Yes, sir.

Q And where do you reside, Miss Kenyon?

A In Nashville, Tennessee.

Q And what is your occupation, ma'am?

A I am a reporter on the Nashville Tennessean.

Q Were you employed by the Nashville Tennessean in 1962 as a reporter?

A Yes, I was.

End 7
Tk 8 fol.

Q And you have been covering this trial here, haven't you?

A Yes, sir.

Q Did you cover the case of United States vs. James R. Hoffa and Commercial Carriers?

A Yes, sir, I did.

Q And did you write stories about the trial itself?

A Yes, sir.

Q And did you write stories before the trial actually started?

A Yes, sir.

Q And before the trial ended, is that right?

A Yes, Mr. Silets.

Q How many editions of your newspaper are published?

A Four.

Q And are they all widely circulated in the Middle District of Tennessee?

A Yes, sir, widely circulated.

Q And were they so widely circulated in 1962?

A Yes, sir.

Q Do you recall or do you know what the circulation of your newspaper is?

A Well, it is well over 100,000.

Q Is it more or less?

A In daily, and on Sunday it is over 200,000, sir.

Q Over 200,000 on Sunday. Miss Kenyon, do you know or to your knowledge was the panel of prospective jurors published in your newspaper as they were in the Banner before the trial started?

A I am not certain. I can't recall.

Q You have no present recollection?

A No, sir.

Q Now, did you write a story wherein you did publish the names and addresses of the jury that was sworn in?

A Yes, sir, I did.

Q Now, I show you an excerpt from the Nashville Tennessean dated Friday, October 26, 1962, and the headline is Hoffa Jury Four Extras Seated. And the by-line is by Nellie Kenyon. Would you see if you can identify that?

A Yes, sir, that was published in the Tennessean on October 26.

THE CLERK: No. 208, your Honor.

(The newspaper clipping referred to above was marked for identification as Exhibit No. 208.)

BY MR. SILETS:

Q Now, Miss Kenyon, I asked the Marshal to hand you Defendant's Exhibit No. 208 for identification which is an excerpt from that article. Would you compare it to the original article and see if that is true and correct?

MR. HOOKER: We make no question about it being

correct.

THE WITNESS: Yes, sir, it appears to be correct.

BY MR. SILETS:

Q And that is the story written by you and published in your newspaper on October 26, 1962, is that right?

A Yes, sir.

MR. SILETS: We offer that in evidence, your Honor, the excerpt.

THE COURT: Without objection, it may be received.

(The documents previously marked for identification as Defendants' Exhibit No. 208, were received in evidence.)

BY MR. SILETS:

Q And, Miss Kenyon, would you look at that and tell the jury what is that excerpt?

A Well, it is a list of the jury in Mr. Hoffa's Nashville trial in 1962.

Q And that, if I may say, doesn't that include their address and their occupation?

A It includes all the names but I don't believe it includes the occupations of the alternate jurors.

Q But of the jurors themselves?

A Yes, sir.

Q Now, Miss Kenyon, what is the price of your newspaper?

A Well, it is ten cents.

Q Was it ten cents on October 26, 1962?

A Well, I can't just say. I am not certain.

Q Do you mean the price has changed?

A Well, it has changed through the years.

Q But was it more or less in 1962?

A Well, it was probably the same as it is now.

Q Probably?

A Yes.

MR. SILETS: No further questions, your Honor. May we have those passed to the jury?

MR. NEAL: May I use them just a moment first?

MR. SILETS: Sure.

MR. NEAL: And the others.

CROSS EXAMINATION

BY MR. NEAL:

Q Miss Nellie, you have cross examined me so often I can't resist the temptation to cross examine you.

A I wish you would.

Q You have been in here and heard the testimony, I believe, that the Defendant Tweel left Nashville on October 23rd?

MR. SILETS: Your Honor, may I object to that?

MR. ALEXANDER: We object to that.

MR. SILETS: Certainly it is beyond the scope of cross examination. We didn't offer her to comment on the

testimony in this case. Very precise point that she published this. She wrote this. It was widely circulated at the time and it is her story and I think Mr. Neal should be limited to that examination.

THE COURT: I don't see the relevancy of the question on cross examination, Mr. Neal.

MR. NEAL: All right.

BY MR. NEAL:

Q Then, the testimony has been that Mr. Tweel left Nashville--

MR. SILETS: (Interposing) We object to that.

MR. NEAL: Preface to my question, your Honor.

MR. ALEXANDER: The jury can draw any inferences they desire to from this testimony. Mr. Neal is improper.

THE COURT: Without making a preface, if you have a question, state your question.

MR. BERKE: Just a minute, if your Honor please, we will want a voir dire then just as Mr. Neal did last week on all of our witnesses. I don't know what his question is going to be but I am sure if it can be prejudicial it will be. We certainly want to observe the same--

THE COURT: (Interposing) Well, let's proceed, gentlemen, if you have a question, state it. Reserve any preface.

MR. NEAL: I don't think the question would be

tremendously prejudicial. My question, Miss Nellie, is--

BY MR. NEAL:

Q Miss Nellie, is this based on the exhibit there introduced by the defendants, the names of the actual jurors did not appear in the paper until Friday, October 26, is that correct?

A Yes, sir. It appears in the Nashville Tennessean on Friday, October 26, 1962, sir.

Q And for your competitor newspaper when it was published, when were the names of the jurors, names of the actual jurors published in that?

A Mr. Neal, I don't recall.

Q What does the exhibit say?

A I don't have that before me.

Q Oh, you don't, you don't have the Banner exhibit of the actual jurors?

A Yes, sorry. Please excuse me.

Q When was it published on that?

A Nashville Banner, Friday afternoon, October 26, 1962.

Q And up until Friday afternoon, October 26, the only names appearing in the Banner were a list of 88 prospective jurors?

A I canot say, sir. I don't recall.

THE COURT: All right, if there is no further

examination, call your next witness.

MR. SILETS: May that be passed to the jury, your Honor?

THE COURT: Yes.

(Witness excused.)

MR. BRANSTETTER: Call Mr. Fitzsimmons.

THE CLERK: He has been sworn, hasn't he?

MR. BRANSTETTER: He has been swcrn.

THE COURT: Proceed.

MR. BRANSTETTER: I would like to wait, if I might, just a moment, may it please the Court, until the jury has at least got out of the way the exhibits that they can --we will have some more.

FRANK FITZSIMMONS,

a witness previously called at the instance of the Defendant Larry Campbell, having previously been duly sworn, was recalled to the witness stand and the following proceedings were had, to-wit:

REDIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Would you state your name, please?

A Frank Fitzsimmons.

Q Mr. Fitzsimmons, you testified previously on this case this past week in this proceedings, is that correct?

A Yes, sir.

Q And you were asked certain questions with reference to the assignment of Larry Campbell to Lousville, Kentucky, in the General Electric organizational campaign. Is that correct?

A Yes, sir.

Q And there was a request by Mr. Neal for certain records with reference to the payment of expenses of Mr. Campbell. Is that correct?

A Yes, sir.

MR. NEAL: No, your Honor, I object to that. Showing him of certain records.

MR. BRANSTETTER: I withdraw the question.

BY MR. BRANSTETTER:

Q Mr. Fitzsimmons, I hand you certain papers here and ask you if you can identify those, please?

End Tk 8
Tk 9 fls.

A All right, sir.

MR. BRANSTETTER: Could we have those marked for identification as a collective exhibit 109?

MR. HOOKER: We'd like to see them.

MR. DALE: Be 209, your Honor.

MR. BRANSTETTER: 209?

MR. DALE: 209, your Honor.

(The documents referred to above were marked Defendant Campbell's Exhibit No. 209 for identification.)

BY MR. BRANSTETTER:

Q After your visit here on a previous occasion state whether or not you returned to Detroit, Michigan, and asked your bookkeeping system or department to provide you with certain records?

A I did, sir.

Q As a result of that, are the records that you have just looked at, were they provided to you?

A Yes, they were.

Q Are these the records that were provided by your bookkeeping department or system?

A Yes, they were. Yes, they are rather.

MR. BRANSTETTER: May it please the Court, we will ask at the appropriate time that these records be introduced in evidence and request that we be permitted to withdraw them and submit photostatic copies because they are the

original records that should be kept and I will let counsel compare.

THE COURT: Without objection that may be done unless there is some objection.

MR. NEAL: Could we have a moment, your Honor?

THE COURT: Oh, yes.

MR. BRANSTETTER: May the record show that government counsel is looking at the originals and that Mr. Lewin, government counsel, is looking at a photostatic copy of the records that have been identified.

BY MR. BRANSTETTER:

Q Mr. Fitzsimmons, you are not a bookkeeper or auditor of the Michigan Conference of Teamsters, are you?

A No, sir, Secretary-Treasurer of the Michigan Conference of Teamsters.

Q Would you now look at the records in front of you and on the first piece of paper identify, state what it is?

A The first item is a check drawn on the Michigan Conference of Teamsters No. 1460, dated November 23rd, 1962, made out to Larry Campbell for $427.71, it's countersigned.

Q Does it show an endorsement by the payee, Mr. Campbell?

A Yes, it does, it shows an endorsement by the payee of the check, Larry Campbell.

Q Now, is that check signed by you?

A It is signed by myself and Jerry McElvin.

MR. BERKE: Can't hear you.

BY MR. BRANSTETTER:

Q Who is Jerry McElvin?

A McElvin is one of the officers of the Michigan Conference of Teamsters.

Q All right. Now, what is the next paper?

A The next paper is an expense report, the weekly expense report dated from October 20th, 1962, through November 16th, 1962.

Q What does it show on its face?

A Showing the check number on it and the amount of $427.71.

Q What is the check number?

A Check No. 1460.

Q And what is designated on the remarks?

A "Organizing expenses," and under remarks, "Organizing campaign, General Electric Corporation."

Q Who is it signed by?

A Signed by Larry Campbell.

Q All right. What is the next piece of paper?

A The next piece of paper is expenditures shown for the month of November, 1962.

Q Does item check No. 1460 appear on that?

A Nov. 23rd, Larry Campbell, organizing expense,

Check No. 1460, in the amount of $427.61.

Q What is the next item?

A The next item is the check stubs from the page No. 1460 dated November 23rd, 1962, Larry Campbell, organizing expense, $427.71.

Q And the next item?

A Next item is monthly statement for the month of November showing --

Q (Interposing) From what, what monthly statement?

A From October 23rd to and including November 27th.

Q A bank statement?

A Bank statement.

Q Yes, what bank?

A The Bank of the Commonwealth, Detroit, Michigan.

Q Does it show with reference to what -- state what this bank statement shows.

A This bank statement shows this check went through the bank.

Q In the amount of what?

A $427.71.

Q And what date does it show that it -- does it appear there what date it went through the bank?

A I would presume that it says November 26th, 1962, the check count 5.

MR. BRANSTETTER: We would like to introduce

Check No. 1460, in the amount of $427.61.

Q What is the next item?

A The next item is the check stubs from the page No. 1460 dated November 23rd, 1962, Larry Campbell, organizing expense, $427.71.

Q And the next item?

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Q Yes, what bank?

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Q Does it show with reference to what -- state what this bank statement shows.

A This bank statement shows this check went through the bank.

Q In the amount of what?

A $427.71.

Q And what date does it show that it -- does it appear there what date it went through the bank?

A I would presume that it says November 26th, 1962, the check count 5.

MR. BRANSTETTER: We would like to introduce

9-5

these records in evidence, withdraw them and submit photostatic copies.

THE COURT: All right. Any objection to that procedure?

MR. HOOKER: No, sir.

THE COURT: All right. Allow it to be filed in that manner.

(The documents previously marked for identification as Defendant Campbell's Exhibit No. 209 were received in evidence and photostatic copies to be furnished.)

MR. BRANSTETTER: We would like these passed to the jury.

MR. NEAL: Could you wait until we cross examine?

MR. BRANSTETTER: We prefer not to.

MR. NEAL: Well, I would like to cross examine.

MR. BRANSTETTER: That's all.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Fitzsimmons, I believe you stated in your last testimony on the stand here that you had nothing to do with the makeup of the records?

End 9
9a fls

A Sir?

Q I believe you testified on the stand here the last time that you had nothing to do with the making of the record.

A Of Local 299.

Q Pardon?

A Of Local Union 299.

Q Do you have anything to do with the making of the records of the Michigan Conference?

A I am the secretary-treasurer.

Q Pardon me?

A I am the secretary-treasurer.

Q Did you make these records?

A Some of these, yes.

Q What part did you make?

A Well, I made the entries on the sheet, I made out the check.

Q Entries on what sheet?

A This large sheet that you have there.

Q Pardon me?

A The large sheet that you have there.

Q This large sheet right here? (Indicating.)

A That ledger pad.

Q I believe you also--

MR. HAGGERTY: (Interposing) Mr. Fitzsimmons, we can't hear you over here. Will you raise your voice?

THE WITNESS: I am sorry. I say the large ledger pad page that you have in your hand there.

BY MR. NEAL:

Q I believe you also testified that he would account for his expenses and you would reimburse him with a check, do you remember that?

A Well, the testimony, you have the advantage of me, you have the testimony there.

Q Well, I don't want to take advantage of you. I will show you any testimony that you want if you don't recollect it. Do you recollect what you said?

A Well,not verbatim, no, sir.

Q Well, in other words, here is a check purporting to be to Larry Campbell for $427.71, there is no breakdown of expenses. Now, what is that?

MR. BRANSTETTER: Now, may it please the Court, it doesn't purport to be such, that is what it is on its face and there is no breakdown of expense; let him ask a question appropriately so the witness can know what is being talked about rather than just making a statement.

MR. NEAL: May it please the Court, I didn't interrupt Mr. Branstetter when he started.

THE COURT: Overruled.

MR. BRANSTETTER: I tried to proceed correctly.

MR. NEAL: I want to cross examine.

THE COURT: Proceed. Overrule the objection.

BY MR. NEAL:

Q I am trying to find out something about this, Mr. Fitzsimmons. Here is a check for $427.71. Now, I notice there is no itemization of any expenses or anything like that, the book just says or this paper you have here just says "November 23, Larry Campbell, Check No. 1460, $427.71."

Now, what is the check based upon?

A Organizational expenses as the sheet shows that he turned in for expenses.

End 9A

Tk 10 fol.

Q What is the receipt? What is the receipt? I notice on this document here it says something about something expense report and it has got hotel, motel, breakfast, lunch, dinner, plane, rail, bus fare, taxi, auto expense, gas, oil, lubrication, wash, garage parking, phone, telegrams, tips, entertainments, but there is nothing --, doesn't itemize anything on here? All you have got is organizing check No. 1460, expense $427.71.

A Also it says on the bottom of that slip, organizing expenses, General Electric Corporation.

Q Says organizing campaign, General Electric Corporation?

MR. BRANSTETTER: May it please the Court, I am not getting this. Could counsel come back here and observe this appropriately?

MR. NEAL: Well, Mr. Branstetter, you asked me to show the witness.

MR. BRANSTETTER: I did not.

BY MR. NEAL:

Q Then, something appears to be a photostat, but it is different on that, you have got three witnesses called, what do you mean?

A I don't know what you mean.

Q I will show it to you. Mr. Sertel, would you show that to the witness?

A I wouldn't know, sir. I didn't see this.

Q Pardon me?

A I didn't see this. I don't know what it is.

Q You don't know what it is?

A No, sir.

Q Well, is it supposed to be a photostat of the original or carbon copy?

A Carbon copy.

Q Whose handwriting is it?

A It is not my handwriting.

Q Do you recognize the handwriting?

A What you point out to me, no, I don't.

Q You didn't make that out?

A No, I didn't.

Q Did you make out the expense at all, what you call the expense voucher thereon?

A I made out the check, sir. I made the entries on the ledger page. And I made the entries on the check stub.

Q Yes, but you didn't make out the thing there that has General Electric organizing campaign?

A No, sir, I did not.

Q And the only thing there in your records to indicate what expenses might have been used for?

A What they were used for?

Q Yes, sir.

A No, sir. The reason for this statement --

Q (Interposing) Pardon me --

A (Interposing) That is the reason for --

Q (Interposing) I understand, but this thing, you didn't make out, couldn't make out, appears to be an original of a photostatic copy on which we have --

MR. BRANSTETTER: (Interposing) He didn't say, may it please the Court, a photostatic copy. Carbon copy. Let counsel hand it up.

BY MR. NEAL:

Q Something looks like Rule 60 something on it, two, I am asking you, sir, that these two papers right here, right here are the only two things that you could indicate that that was a General Electric expense. Is that right?

A These two papers you are speaking of is the item that I gave him the check for organizational expenses.

Q Pardon me?

A I said that these two items here are the items that I made out the check to him on.

Q Items?

THE COURT: Let's each speak a little louder, please, so everyone can hear.

BY MR. NEAL:

Q Yes, sir, I will speak louder. You saw those items when you made out the check. Is that right?

A Yes, sir.
Q Well, who made them out?
A Mr. Campbell.
Q Mr. Campbell made them out. Pardon me?
A Mr. Campbell.
Q What is he doing, how come the three witnesses called?

MR. BRANSTETTER: May it please the Court, let's quit arguing with the witness. Let him ask him a question if he likes.

THE COURT: All right.

BY MR. NEAL:

Q Did Mr. Campbell put three witnesses called on the carbon copy?
A Three witnesses called is the best of my estimation wasn't on there, wasn't on this paper when he turned it in.
Q Did he turn that in?
A Yes, he did.
Q Did he turn it in to you?
A Yes, he did.
Q You remember him turning it into you, is that correct?
A Yes.
Q I see. Now, sir, would you look at the second,

look at the date -- you say Mr. Campbell endorsed that check. Is that right?

A Yes.

Q You recognize his signature on the check?

A To the best of my ability, yes.

Q Would you say that is Larry Campbell's signature?

A I would say yes.

Q All right, now, look at the signature on that voucher you are talking about that he brought to you, compare that with the signature on the check, sir, and tell me if it is the same?

A Well, I don't think I'm qualified to make a definite identification.

Q Well, just give me your best estimate then if that is the same signature.

A I would say yes.

Q You would say yes?

A Yes, sir.

Q May I have it again? I want you to look at that again, sir, look at the endorsement on the check and look at that purported signature on that voucher you are talking about.

MR. BRANSTETTER: May it please the Court, he has already answered. We will pass it to the jury. Let Mr. Neal ask appropriate questions.

MR. NEAL: We will pass it to the jury, but I want to give you an opportunity to compare that.

MR. BRANSTETTER: We certainly will.

BY MR. NEAL:

Q Compare them together. Put them together. Look at the "P" on the two. Look at the "A."

MR. BRANSTETTER: May it please the Court, I object to counsel trying to insinuate something here. Let's pass them to the jury.

THE COURT: He has answered the question.

MR. BRANSTETTER: He certainly knows better. I ask the Court to admonish him and stop this sort of conduct.

THE COURT: Proceed.

MR. NEAL: Admonish me for what? Asking his witness a question?

BY MR. NEAL:

Q Will you tell me, sir, are those the same two signatures?

MR. BRANSTETTER: I believe the Court sustained the objection.

THE COURT: I believe he has responded that he thought they were.

MR. NEAL: All right, sir.

BY MR. NEAL:

Q We're not going to agree to the substitution of

any photostats for this. I would like to pass this to the jury and ask the jury to compare the signatures on the endorsement on the check with the signature on the voucher.

MR. BRANSTETTER: We assume they will do that, may it please the Court, without Mr. Neal suggesting.

THE COURT: All right.

MR. BERKE: Your Honor, the issue is did they pay him this money regardless of who might have signed the check.

MR. NEAL: The issue is when were these documents made.

MR. BRANSTETTER: May it please the Court, there is no issue here at all about Mr. Neal trying to create something here about vacation out of thin air.

THE COURT: Let's proceed, gentlemen, without arguing.

BY MR. NEAL:

Q Now, you told me the other day I believe that Local 299 would pay part of the expenses and the Michigan Conference of Teamsters would pay part of the expenses for this so-called trip to Louisville? Looks like the Michigan Conference paid them all. Is that correct?

End 10
10a fls

A Well, you will recall, as far as your statement is concerned that I told you--

Q (Interposing) Would you answer the question?

A That I told you the testimony is there. And the testimony is the item that I told you but the Michigan Conference did pay these expenses.

Q You said it was allocated between Local 299 and the Michigan Conference, is that correct?

A I won't say it is correct. The testimony is there.

Q Well, did you? Do you remember?

A No, I don't remember. I can't remember from one moment to the next. You had me on the stand here for quite sometime. I can't recall verbatim what I said.

Q I see. Now, we have your records of Local 299, do we not?

A Yes, sir.

Q Expenses records?

A Yes.

Q You didn't have access to them over the week end, did you?

A No, sir.

Q But you did have access to the Michigan Conference of Teamsters?

A Yes, I testified to that this morning.

Q So it turns up today that the Michigan Conference

you say paid all the expenses?

MR. SILETS: Your Honor, Mr. Neal obviously is trying to draw some inference that this is recently fabricated evidence. Apparently if the jury is looking at this check it is my understanding this is an old check. Old cancellation. Look and see when it was cancelled. This wasn't done over the week end.

THE COURT: Let's proceed.

BY MR. NEAL:

Q Let me clear that up, does that check where Larry Campbell was the check itself, that the jury is looking at now, or through looking at?

A No, they haven't.

MR. HOOKER: No, they haven't.

BY MR. NEAL:

Q Does that check indicate anything about Larry Campbell being in Louisville?

A I have got all the records inmy hand.

Q All right, look at the check.

A I have got the check. I have got the expense item that he turned in. I have got the ledger sheet. I have got the check stub and I have got a bank statement from the bank of the Commonwealth showing that these items and this check as such was paid to them on the basis of his expense item that was turned in into me.

Q Mr. Fitzsimmons, would you mind answering my question? Does the check, does the check show the--, the check itself, show where Larry Campbell was at any time?

A No, it doesn't.

Q All right. That is all I wanted to know.

A No, it doesn't.

Q Now, look at the large sheet again--

MR. BRANSTETTER: (Interposing) May it please the Court, I want to object to this type of procedure. The witness has testified what the total papers show. Counsel can only inquire as to what they show. They will be passed to the jury. This inference that there is something on the check or not on the check is very inappropriate.

MR. NEAL: Your Honor, I am trying to point out what the records show.

THE COURT: Overruled.

MR. NEAL: Can't I cross examine the witness?

MR. BRANSTETTER: The witness can see the records.

THE COURT: Overrule the objection.

BY MR.NEAL:

Q You said, sir, that these records show Larry Campbell was at a certain place, does the check show that?

A Now, when did I say that?

Q Does the check show that, Mr. Fitzsimmons?

A The check shows that there was a check paid in lieu

of or for the expenses he turned in.

Q Does the check show it was paid for those expenses?

MR. BRANSTETTER: I object, may it please the Court, let him answer.

THE WITNESS: Can I answer?

MR. BRANSTETTER: Quit cutting him off.

MR. NEAL: That is all right, you keep that, I will get the copy. Yes, sir, you answer me, will you please? Now, tell me where the check shows he was paid for those expenses? The check shows it was cashed in 1962, I agree with you on that. But the check shows, but where does it show paid for expenses?

MR. BRANSTETTER: May it please the Court, we are glad to have Mr. Neal's questions but let him answer appropriate questions on cross examination.

End 10A THE COURT: All right.

fk 11 fol.

Q Where does the check show it was paid for his expenses?

A Well, Mr. Neal, we have got an organization.

MR. BERKE: Little louder, please.

A I say we have an organization, a perfectly sound business organization and whenever--

Q (Interposing) Just a moment.

MR. BRANSTETTER: May it please--

MR. BERKE: (Interposing) May it please the Court--

MR. BRANSTETTER: (Interposing) May I be of assistance? He has asked where it shows. Let him check his bankbook, where it shows Check 1406. He is just trying to do something here that is not quite proper, shows November the 23rd, 1962, Larry Campbell, organizational expense, $427.71 from the check stubs. Let's keep the record straight.

BY MR. NEAL:

Q Are you sufficiently educated with Mr. Branstetter's reply to answer the question?

MR. SILETS: Objection.

MR. BERKE: We object to that, if your Honor please. I think all he should do is ask questions.

THE COURT: Yes.

MR. NEAL: That's all I would like to do and get an answer.

THE COURT: Ask the question.

BY MR. NEAL:

Q Does the check, does the check itself show what the check was for?

A The check shows it was made out to Larry Campbell for $427.71.

Q Right. All right.

A The check forthcoming from the expense item.

Q I am not talking about the check--

MR. BERKE: (Interposing) Just a minute, if your Honor please, I think the witness, as long as he is explaining an answer, Mr. Neal has no right to cut him off.

THE COURT: Allow him to answer.

BY MR. NEAL:

Q All right, all right.

A The check was forthcoming from the expense statement which was turned in by Larry Campbell.

Q Does the check itself show where Larry Campbell was?

A Well, for the third time, Mr. Neal, no, it doesn't.

Q All right, all right. Now, does the big thick document you have there, what do you call it?

A Ledger sheet.

Q Ledger sheet. Does that show where Larry Campbell was?

A No, it doesn't.

Q All right. Now, does the check stub that Mr. Branstetter got up and talked about, does that show where Larry Campbell was?

A No, sir, it doesn't.

Q All right. Now, does the bank statement show where Larry Campbell was?

A No, it doesn't.

Q Does that voucher you have been talking about show where Larry Campbell was?

A Well, it shows that it was organizing campaign of General Electric Corporation and on the basis of the testimony we have here so far, well, I testified that Larry Campbell was delegated to Louisville.

Q Yes, you testified--

MR. BRANSTETTER: (Interposing) Let him finish his answer. I object to him interposing. Let him finish his answer.

THE COURT: Allow him to answer.

A Knowing well that he was there during these dates--

MR. BRANSTETTER: (Interposing) May it please the Court, I think counsel is misquoting the record on the seven times I went and checked it. It says this witness testified that the record would be the best evidence, he has gone and produced them now and I don't know what counsel is

fussing about.

THE COURT: Well, allow the witness to answer if--

A (Interposing) I have answered.

Q You have answered sufficiently. Anything else you want to say? Anything else you want to say?

A Only to ask you to be a little more careful of my record in court.

Q I will try to do that. So the only thing in there that indicates what Mr. Campbell was doing and where he might be is on that voucher you are talking about, is that correct, on the voucher?

A These records (indicating)?

Q Yes.

A Yes.

Q I see. All right. Now, the voucher, and you say the signature on the voucher is, in your opinion the same signature?

MR. BRANSTETTER: May it--

MR. BERKE: (Interposing) We have been over that, the Court has ruled on that.

THE COURT: Sustained.

MR. NEAL: All right. I would like for the jury to look at the two signatures.

MR. BRANSTETTER: We would like--

MR. NEAL: (Interposing) The endorsement on the check and the signature on the voucher.

MR. BRANSTETTER: May it please the Court, let counsel stop talking.

THE COURT: Yes.

MR. NEAL: I didn't know Mr. Branstetter cornered the market on words in here.

REDIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Fitzsimmons, you know you assigned Larry Campbell to Louisville, don't you?

MR. NEAL: If your Honor please, that's a leading question.

MR. BRANSTETTER: It is a leading question and I withdraw it.

BY MR. BRANSTETTER:

Q Did Larry Campbell, state whether or not Larry Campbell made reports to you during the period he was assigned to Louisville.

MR. NEAL: And that is repetitious.

MR. BERKE: In view of the cross examination, if your Honor please, this is a perfectly proper question.

THE COURT: I will allow him to answer.

A Yes.

MR. NEAL: Well, if Mr. Berke--

BY MR. BRANSTETTER:

Q (Interposing) Mr. Fitzsimmons, as far as--go ahead and answer the question.

A Yes, he did report to me, I testified to that before.

Q All right.

A He did report to me.

Q State whether or not you testified--

MR. NEAL: (Interposing) That's what I meant, your Honor, it's repetitious, Mr. Fitzsimmons even remembers it.

BY MR. BRANSTETTER:

Q State whether or not you testified when Mr. Neal was asking you before that the best evidence would be the records of what took place, he asked the question.

A Yes, I did testify.

Q How many times do you remember answering just that way to Mr. Neal when you were here before?

A I have got to answer you, Mr. Branstetter, the same way, I remember stating it but you would have to check the testimony to make sure of the number of times.

Q Now, with the records that the jury is now looking at, were those the records that you normally kept in 1962 on this particular type of procedure?

A They are the records kept.

Q Were the entries made in their usual manner, as far as you know?

A Yes, they are.

Q There is no question about the check being--going through the bank, as far as your record shows, is there?

A No, sir.

Q Is there any question about the date of its issuance, insofar as your records show?

A No, sir.

Q Do you, under the federal statute, make reports to the Department of Labor with reference to expenditures that consist of audits?

A Very definitely.

Q Did you, during the year 1963, make such records covering the year 1962?

A Very definitely.

Q This is under the Labor Management Reporting and Disclosure Act?

A Landrum 1 and 2 reports.

Q Do you know whether or not--I will hand you here some documents showing a letter addressed to the Honorable John L. Holcomb, Commissioner of Bureau of Labor-Management Reports, United States Department of Labor, Washington 25, D. C., dated March 26, 1963, and ask you to look at it and see if you can identify it?

A Yes, this is--

Q (Interposing) Would you read the letter of transmittal, please?

MR. NEAL: No, we want to see it first.

MR. BRANSTETTER: All right. May we have it identified, assigned an exhibit number?

MR. NEAL: I don't think this is proper redirect. I don't understand what they are doing.

MR. BRANSTETTER: Well, counsel seemed to have some question about all these procedures.

MR. NEAL: I have some question about something.

THE COURT: Exhibit No. 210.

MR. DALE: Is this a collective exhibit?

MR. BRANSTETTER: Yes, it is.

THE COURT: For identification.

(The documents referred to above were marked Defendant Campbell's Collective Exhibit No. 210 for identification only.)

MR. BRANSTETTER: Well, we will, of course, may it please the Court, request that we be permitted to withdraw this and make photostatic copies under the supervision of your Clerk in order that we may keep the originals in the files.

MR. NEAL: We object to withdrawing the originals of this document until, your Honor, until after the trial.

MR. BRANSTETTER: May it please the Court, counsel

has seen it and compared it to the photostatic copies, if they can point out some difference in them, he would have a right to make the objection, if he can't, I assume--

MR. NEAL: (Interposing) Yes, if I see the signatures are the same--

MR. BERKE: (Interposing) I object.

MR. NEAL: What difference--

MR. BRANSTETTER: (Interposing) There is no difference.

THE COURT: Proceed, gentlemen. The original will remain part of the record until such time as the trial is completed, unless you enter an agreement upon the substitution of the copies.

End Tk 11
Tk 11a fls.

MR. NEAL: Your Honor, we object to this. I don't see what relevancy this has. The writer, of course, would be Frank Fitzsimmons who says, "Please note this report does not necessarily reflect matters within the personal knowledge ofthe undersigned."

I don't see the relevancy of it and I don't see what the competency is.

THE COURT: Allow it to be filed for identification purposes.

May we proceed, gentlemen?

BY MR. BRANSTETTER:

Q Mr. Fitzsimmons, while this is being marked do you prepare the labor-management reports or do you have an auditor do that?

A Our auditors prepare them.

Q And when you transmit the reports to the department of the government of the United States they are based upon the reports of certified public accountants or auditors?

A Yes, sir.

Q And this report was submitted in that fashion, is that correct?

A Yes, sir.

Q And it was submitted after the audit had been made?

MR. REDDY: May it please the court, we object to

Mr. Branstetter testifying.

MR. BRANSTETTER: I think I may be. He has a right to object.

MR. REDDY: If he wants to ask the witness some questions let him ask them.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q Does this report here have a listing showing any expenses that were involved insofar as Larry Campbell was concerned as submitted? Would you look at that and see?

MR. NEAL: Well, Your Honor, we object to putting in a document indirectly that we objected to putting in directly, photostats of something here that the man, the witness Fitzsimmons, says in the covering letter that this doesn't mean I have personal knowledge of this.

MR. BRANSTETTER: Required by law to submit them.

THE COURT: Well, it does seem quite remote, gentlemen. Let's move along.

End 11A

Tk 12 fol.

Q Would you go ahead and look?

A Yes. That is page under Schedule, I think it is "B" or No. 9, disbursements to employees. Shows item paid Larry Campbell $428.00.

Q That was submitted in accordance with the letter of transmittal to the department of the federal government that you were required by law to submit it to?

A That's right, sir.

Q What is the date of the transmittal of that information to the federal government?

A March 26, 1963.

Q Does that cover the calendar year or your fiscal year 1962?

A Yes, it does.

Q 1962 is the period of time covered by the exhibit that the jury is now looking at also. Is that correct?

A Yes, sir.

MR. BRANSTETTER: We would like to have this marked for identification in evidence since counsel for the government apparently had some question about the total procedure here and the handling of funds.

THE COURT: Well, it will be admitted for the limited extent that he has testified to about it.

MR. BRANSTETTER: Right. All right, we would like this passed to the jury on that limited basis to look at

the transmittal and the page that he referred to.

MR. NEAL: Your Honor, he has testified about it over our objection because he says in the letter he has no personal knowledge of these things.

THE COURT: Let's file it for identification and the witness has testified to the portion that is considered by counsel to be pertinent. Let's proceed, gentlemen.

FURTHER RECROSS EXAMINATION

BY MR.NEAL:

Q These documents here that you have testified about don't indicate where Larry Campbell was in October and November, 1962, do they?

A Not to the best of my knowledge.

Q We have to depend upon your word for that, don't we?

A Yes, sir.

MR. BRANSTETTER: May it please the Court, if counsel will agree that he was not in Louisville--

MR. HAGGERTY: May it please the Court, it isn't a matter of his word. It is the statement of Larry Campbell and the testimony of Larry Campbell. This has gotten to be ridiculous.

THE COURT: Sutain the objection to the last question. It is argumentative.

MR. SILETS: May I ask him a question too, Your

Honor? I haven't had the opportunity yet?

THE COURT: All right.

RECROSS EXAMINATION

BY MR. SILETS:

Q Mr. Fitzsimmons, are you a handwriting expert?

A No, sir.

Q You don't know or do you know precisely anything about the signatures?

A Do I know anything about them?

Q I mean, you are just making your best guess now, aren't you?

A That's right.

MR. SILETS: All right.

THE COURT: Anything further of this witness? If not, may he be excused? You may be excused, sir. Call your next witness.

(Witness excused.)

MR. BRANSTETTER: The last record that was here, where did it go?

THE COURT: Exhibit No. 210?

MR. BRANSTETTER: We would like that passed to the jury.

THE COURT: No. That is filed for identification.

MR. BRANSTETTER: I thought the Court ruled passed to the jury for the limited purpose of Page No. 3 counsel

testified about?

MR. NEAL: I agree counsel testified about it. Counsel Branstetter.

MR. BRANSTETTER: We would like to call Mickey Mellon. May it please the Court, we are slightly over recess time but I don't know how long this witness might be.

THE COURT: Well, I expect we might as well take a recess at this time. Take a ten minute recess, ladies and gentlemen.

(Thereupon,at 10:53 a. m. February 24, 1964 court was in recess.)

End 12

12 Fol.

(Thereupon, after recess, court was in session and the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

MR. BRANSTETTER: Could I ask, did the jury finish seeing these documents? Let me have it at the moment and we will pass it back to the jury if we may? As soon as we finish with this witness.

MILFORD MALLIN,

a witness called at the instance of the Defendant Larry Campbell, having first been duly sworn, was examined, and testified as follows:

DIRECT EXAMINATION

BY MR. BRANSTETTER:

Q Would you state your full name, please?

A My name is Milford Mallin.

THE REPORTER: Your Honor, could he spell his last name?

THE WITNESS: (Spelling) M-a-l-l-i-n.

BY MR. BRANSTETTER:

Q Mr. Mallin, where do you live, sir?

A I live in Oak Park, Michigan.

Q What is your profession?

A I'm a Certified Public Accountant.

Q What association or organization are you a member of in this particular field?

A I'm a member of the American Institute of Certified Public Accountants.

Q How long have you been engaged in this profession?

A I've been a Certified Public Accountant since 1957.

Q What is your present work as a Certified Public Accountant?

A I practice public accounting.

Q Are you in private practice?

A I'm in private practice.

Q Do you accept private accounts?

A Right.

Q Now, prior to going into private practice, what was the nature of your work?

A I was employed by an accounting firm.

Q Were you ever employed by the United States Government?

A I was employed by the Internal Revenue Service.

Q For how long a period of time?
A Approximately 11 years.
Q And in what capacity?
A I was an Internal Revenue agent.
Q And where were you stationed or where was your area of work?
A I was employed in Detroit, Michigan.
Q Did the nature of your work involve accounting or accounting practices of any sort?
A Yes, it did. I examined income tax returns.
Q Do you do the Certified Public accounting work for the Michigan Conference of Teamsters or have you done this work?
A Yes, I do.
Q When did you begin or accept employment by the Michigan Conference of Teamsters, do you recall?
A I don't recall but it has been a good number of years.

MR. BRANSTETTER: May I have the last exhibit that was filed?

MR. DALE: 210.

BY MR. BRANSTETTER:

Q I hand you here what has been filed for identification and other limited purposes as Exhibit 210 and ask you to look at the papers and state whether or not you can

identify them?

A This is a copy of a Form LM2 that was filed with the Labor-Management Reporting Department.

Q Where was it filed, do you know?

A It was sent to Washington, D. C.

Q All right. Let me hand you -- you retain that at the moment, if you would, and let me hand you Exhibit 209 -- now, I would like for you to look at Exhibit 209 and state what is the first piece of paper there on the exhibit?

A The first piece of paper is a cancelled check.

Q Drawn on what account?

A On the account of the Michigan Conference of Teamsters.

Q Made payable to whom?

A Made payable to Larry Campbell.

Q In what amount?

A In the amount of $427.71.

Q Does it show as having been cancelled?

A Yes, it has been cancelled.

Q All right. Were you furnished -- go on -- what is the next record you have?

A The next piece of paper is an expense voucher.

Q And with whose signature or notation on it?

A It has Larry Campbell's signature on it.

Q Does it show any amount of money?

A It shows the amount of $427.71.

Q What is the next? What does it show it's for, what is the writing on the paper of the expense voucher?

A Organizing campaign, General Electric Corporation.

Q What is the next piece of paper?

A The next piece of paper is a copy of the expense voucher.

Q And what is the next piece of paper?

A The next piece of paper is a journal, an expenditures journal.

Q Does it have a designation of Larry Campbell on it and, if so, read what it says.

A Under the date of November 23rd it shows payable to Larry Campbell for organizing expenses Check No. 1460, the amount is $427.71.

Q What is the next piece of paper?

A The next piece of paper is a check stub.

Q And what is it designated by number, state the number, read what it says.

A The check number 1460, it says, "Larry Campbell, organization expenses."

Q Does it show the amount?

A It shows the amount of $427.71.

Q What is the next piece of paper?

MR. NEAL: Your Honor, we object to this, they

bring a Certified Public Accountant down just to read a document in evidence.

MR. BRANSTETTER: Counsel is boiling in his own stew I submit.

MR. NEAL: I don't feel boiling. I am wondering if this is not an imposition of time.

THE COURT: Proceed.

BY MR. BRANSTETTER:

Q Go ahead. What is the next document?

A The next document is a bank statement.

Q State whether or not it shows an item with reference to the other papers you have just testified about.

A Under checks, which are charges to the bank account, there is an item of $427.71.

Q Now, state whether or not -- let's go to your next document there, if we may -- state whether or not the material that you have been looking, Exhibit 209, was furnished to you when you were making up the report required by the federal law, the LM report?

A Yes, it was.

Q Was this the source of the information? Just state what you did with reference to making up this, the document that was submitted to the federal government?

A Well, the information was taken from the primary records and it was classified into various expense items and

End 13 4 fls

reported on the LM2.

Q And would you now turn to the LM-2 form and state whether or not this same form that you have covered in the other document is carried in the LM-2 form?

A It is shown on the LM-2 form on Page 4.

Q And what is shown there?

A Expenses including reimbursed expenses of $428.00.

Q Well, now, this $428.00 doesn't correspond with what you read on the check, would you explain that?

A Yes. In accordance with the labor department requirements they requested that cents be dropped and it be rounded off to the closest dollar.

Q Instead of what is--, what is the differentiation in the two figures then of the check and the LM-2 report?

A The difference is $.29.

Q And you did round it off and put--

A (Interposing) It was rounded off to the next closest dollar which was $428.00.

Q As a certified public accountant state whether or not you prepared the LM-2 reports that you are now holding in your hand?

A I did prepare the LM-2 reports.

Q Look at the front part of those papers and I will ask you if you would of the LM-2 report that you have in your hand and submitted to the Federal Government and if you would

read the letter that appears on the very front of these documents, the transmittal letter. Yes.

A This letter, this copy of the letter addressed to the Honorable John L.Holcombe, Commissioner of the Bureau of Labor Management Reports.

Q Go ahead.

A "United States Department of Labor, Washington 25, D. C. Dear Mr. Commissioner: Enclosed are two copies of LM-2 report for the Michigan Conference of Teamsters for the fiscal year ending December 31, 1962. This report has been prepared and is being filed in accordance with our understanding of the requirements of Sections 201 (b) and 301 (a) of the Labor Management Reporting and Disclosure Act of 1959. And part 403 and Section 408.5 of the secretary's regulations. Please note that this report does not necessarily reflect matters within the personal knowledge of the undersigned. The report is based upon books, records, and information which has been represented to the undersigned to be accurate. If any additional information is required please advise."

And it is signed: "Very truly yours, Frank E. Fitzsimmons, Secretary-Treasurer, Michigan Conference of Teamsters."

Q What is the date of that letter?

A This letter is dated March 26, 1963.

Q Documents now attached to it, state whether or

not they were prepared by you as a certified public accountant?

A This is a copy of the LM-2 report which I prepared.

MR. BRANSTETTER: We would now like to introduce it in evidence, may it please the Court, the totality of these papers.

THE COURT: All right, without objection it will be admitted.

(Documents previously marked Exhibit No. 210 for identification were received in evidence.)

MR. BRANSTETTER: Could I ask one more question?

BY MR. BRANSTETTER:

Q What date, could I ask one more question, please, sir, the papers, what date does the bank records show the check made payable to Larry Campbell was cashed or passed through the bank?

A It appears as though the check were cancelled through the check on November 26, 1962.

Q Did you verify the--, before you made--, and certified these audits, did you make various verifications of these various checks with the bank?

A The bank account was reconciled.

Q By you?

A By me.

MR. BRANSTETTER: You may ask him. We would like those passed to the jury.

MR. NEAL: May we see them just a moment, first?

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Mallin, you said the bank account was reconciled. Mr. Branstetter asked you if the check, these various accounts, if you checked these various accounts, and you said the bank account was reconciled, that simply means that this check was cashed?

A No, it doesn't, it means that the check was checked into the books and reconciled to the balance as shown by the bank statement less the outstanding checks. So that the book balance and the bank statement balance were in agreement.

Q But that wouldn't show what Larry Campbell was doing in Louisville, Kentucky, would it?

A No, it wouldn't.

MR. BRANSTETTER: May it please the Court, I think counsel knows this and he knows this is an inappropriate question and seeking to infer something.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q What was your answer?

A These records do not indicate where the expenditure was incurred.

Q Or if Larry Campbell was in Louisville, Kentucky

when he was doing some organizing or jury tampering?

MR. SCHIFFER: I object to this question. Now, Your Honor--

MR. HAGGERTY: (Interposing) I object, may it please the Court.

MR. BRANSTETTER: I object to that, may it please the Court.

MR. ALEXANDER: On behalf of Defendant Tweel I object to that.

MR. SCHIFFER: Mr. Neal is going on and I object to it. Mr. Neal put witness after witness on the stand. Your Honor will recall that the owner of Brown's Guest House testified and--

THE COURT: (Interposing) I sustained the objection and strike the question.

MR. HAGGERTY: I ask this time, may it please the Court, that Mr. Neal be admonished. This was done with malice aforethought. To inject in this jury tampering before this jury at this time. I can't understand how a government attorney can get away with the things that Mr. Neal has to date and this is a fine example of it. I sincerely ask the Court to admonish him.

THE COURT: Well, gentlemen, let's disregard that. Sustain the objection. Disregard the statement of counsel. It is the Court's opinion that the--

MR. ALEXANDER: (Interposing) Your Honor, on behalf of the Defendant Tweel I would like to move for a mistrial and/or severance and that this is very prejudicial to the Defendant Tweel.

THE COURT: Overruled.

MR. BRANSTETTER: May it please the Court I think that the Defendant Campbell has been held here now for six weeks without any proof that even the government could assert that he should be here on and now they are trying to infer things or make statements that I concede to be highly prejudicial and improper and I respectfully request the Court at this time to grand Defendant Campbell a mistrial.

THE COURT: Overruled.

MR. SILETS: May the defendant Dorfman join in Mr. Alexander's motion for a mistrial or in the alternative for a severance?

End 14 THE COURT: Allow the motion to be overruled.

Tk 15 fol.

MR. BERKE: If your Honor please, is there any relief that the Court can give us, any sort of protection against Mr. Neal's constantly making these remarks that are prejudicial, which the Court holds are prejudicial and the Court tells Mr. Neal not to do it and he continues to do it and all the Court says is, "Well, just disregard it," and that is all? But we think, if your Honor please, in order to get a fair trial for these defendants, these remarks which the Courts have heretofore held to be prejudicial, which Mr. Neal knows to be prejudicial, which the Court says is prejudicial, now, aren't we entitled to a fair trial at the hands of the government attorneys by the Court and by the jury?

Now, if these things are prejudicial, and Mr. Neal knows they are, and he continues to do it, then, if your Honor please, we are not getting the fair trial we are supposed to get and we say that this is harmful. We think that the Court should go further than just simply say, "Well, Mr. Neal, please don't do this."

We think that the Court, in the power that it has, can certainly sit down on Mr. Neal and insist that from here on out--now, we are producing our proof here and we have been producing it and we are going to produce more proof--we think that the Court now should tell Mr. Neal that these remarks should not be made and we think that simply stating,

"Well, just disregard it," we say that is not enough.

The law contemplates that the Court be more firm on this type of an issue.

MR. NEAL: Your Honor, I am entitled to ask the question I asked. I want to know what this witness' knowledge is and he is making plain answers.

THE COURT: Let's proceed.

MR. BERKE: That's not the question.

MR. HAGGERTY: Just making a statement like that--

THE COURT: (Interposing) Gentlemen, the Court has heard the argument. Let's proceed with the trial.

MR. SCHIFFER: Your Honor, I move on behalf of the Defendant Parks for a mistrial, particularly for the reason that Mr. Neal is injecting--

THE COURT: (Interposing) Mr. Schiffer, I have heard this motion.

MR. SCHIFFER: I am making an objection. I want my reasons stated for this record because Mr. Neal is going to try to keep everything out.

I say that the ground of my objection right now is, and I move for a mistrial because Mr. Neal is injecting these prejudicial remarks because he knows his case has fallen apart and he has got no case to present any more and he is going to try to bolster his case by his own remarks and to that extent is so prejudicial we can't get a fair trial.

THE COURT: All right.

MR. SCHIFFER: He is giving testimony to try to hold up a case that has fallen apart in his face.

THE COURT: Disregard the statement and argument of counsel, ladies and gentlemen. Proceed. Overrule the motion.

MR. SILETS: Your Honor, may I take exception to the Court's failure to admonish Mr. Neal?

THE COURT: Yes, sir, you may take an exception.

MR. HAGGERTY: I join in that exception.

THE COURT: All right, proceed.

BY MR. NEAL:

Q Mr. Mallin, these documents which you have described here don't reflect what Larry Campbell was doing in Kentucky, in Louisville, Kentucky, in October or November.

MR. HAGGERTY: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Overruled.

A There is no indication on the records.

Q And you have no personal knowledge of what he was doing?

A I had no personal knowledge of what he was doing.

Q You are testifying about records here?

A I am testifying from the records.

Q Now, you didn't make these records here, did you,

THE COURT: All right.

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A I had no personal knowledge of what he was doing.

Q You are testifying about records here?

A I am testifying from the records.

Q Now, you didn't make these records here, did you,

sir? I am talking about Defendant's Exhibit No. 209. Did you make any part of those records?

A I totaled the column.

Q Pardon?

A I totaled the column.

Q You totaled the column?

A That's right.

Q You are referring now to the ledger sheet?

A Right.

Q You totaled that column?

A I totaled that column.

Q That ledger sheet doesn't indicate what Larry Campbell was doing in Kentucky, does it, in October, November and--

MR. BRANSTETTER: (Interposing) May it please the Court, this witness has answered three times the record does not indicate.

THE COURT: Sustained.

MR. BRANSTETTER: And he just keeps repeating.

BY MR. NEAL:

Q Excuse me. You mean none of the record shows that so that would be one of the records?

MR. HAGGERTY: Wait a minute.

MR. BRANSTETTER: The record speaks for--

MR. HAGGERTY: (Interposing) Your Honor made a

ruling and Mr. Neal deliberately gets up and asks the same question. Now, how can the defendants have a fair trial with a persecutor such as that?

THE COURT: Sustain the objection. Disregard the remarks of counsel.

BY MR. NEAL:

Q Is that the only part you had in making these records, sir?

A That is the only part I had on this page.

Q Well, did you have any part of any other records there? What is that exhibit number?

A 209.

Q Did you have any other part in making the entries on those records on 209?

A No, other than--I had no part in making any other entries on this exhibit.

Q All right, sir. Now, you took the stand a few moments ago. We were at recess. You came to the stand right after recess. Did you talk to anyone during recess?

A Yes, I did.

Q Whom did you talk to?

A I spoke to Mr. Branstetter.

Q Mr. Branstetter. Did he talk to you about signatures on checks?

A I don't recall his talking to me about signatures

on checks, no.

Q Or signatures on vouchers?

A I don't recall that.

Q Did he tell you--you don't recall, he might have or he might not have?

A I don't recall his saying it.

Q I see.

MR. BRANSTETTER: I will be happy to clear it up. I didn't, Mr. Neal.

MR. NEAL: Well, I am not accusing you of anything improper, Mr. Branstetter.

THE COURT: Keep your comments down or we will start another argument. Let's proceed.

BY MR. NEAL:

Q Michigan Conference of Teamsters pay for organizing expenses, is that ordinary procedure?

A Yes, they do.

Q Generally?

A Yes, they do.

Q Is this--generally does the Michigan Conference of Teamsters jurisdiction located to Michigan, I assume, isn't it?

A I don't know what jurisdiction they have, Mr. Neal.

Q Well, do you come across many records where they have organized outside of Michigan?

MR. BRANSTETTER: Now, may it please the Court, this witness has testified that he knows what these records show, he's a certified public accountant.

THE COURT: Sustained.

MR. BRANSTETTER: Appropriately he should be limited to that.

THE COURT: Yes, sustain the objection.

MR. NEAL: Very well.

BY MR. NEAL:

Q Is this voucher, does the Michigan Conference of Teamsters have a form for a voucher you call an expense voucher?

A They have a form, yes.

Q Does it have "Michigan Conference of Teamsters" on it or anything like that?

A I don't recall whether it's a regular printed form or whether it's a standarized form.

Q Well, it would have "Michigan Conference of Teamsters" on it?

MR. BRANSTETTER: May it please the Court, if counsel has the records let him pass them up, it's unfair to this witness to ask him these things without him looking at the records.

THE COURT: Well, if he knows he can say, if he doesn't he can say he doesn't.

BY MR. NEAL:

Q Do you know whether or not?

A I don't know whether it does or not, no, Mr. Neal.

Q Is this how--you have seen a number of vouchers, have you not, I assume, in your accounting work for the Michigan Conference of Teamsters?

A Yes, I have.

Q Incidentally, you also work for Local 299, don't you?

A I do.

Q You also work for Joint Council 43, Teamsters Joint Council 43?

A Yes, I do.

Q As a matter of fact, you are the accountant for most of the Teamsters organization in Michigan?

A Right.

Q That is most of your work, isn't it, accounting?

A It's a great deal of my work.

Q It's practically all of it, is it not, Mr. Mallin?

A It's a great deal of the work.

Q All right. Have you seen a number of vouchers that you used to prepare records and so forth?

A In the course of my work, yes, I do examine vouchers.

Q Isn't it the usual thing to attach receipts to

these expense vouchers?

A In some cases receipts are attached, right.

Q What do you mean, in what cases would they not be attached?

A When they are not there they are not attached.

Q You are right. What cases will they not be there?

A In some cases.

MR. HAGGERTY: Just a moment, your Honor. I don't believe there is any foundation to show whether this man has the knowledge or he is competent as a witness to testify.

THE COURT: Sustain the objection.

End Tk 15
Tk 15A fls.

BY MR. NEAL:

Q Have you reviewed a number of vouchers for preparing audits and so forth for the various Teamster organizations in Michigan?

MR. HAGGERTY: I object, may it please the Court, as incompetent, irrelevant, and immaterial as to other Teamster organizations. The issue we are confined to is confined to these exhibits here and what they embrace, which seems to be the Michigan Conference of Teamsters only.

THE COURT: I believe I will sustain that objection.

MR. NEAL: Very well.

BY MR. NEAL:

Q Have you reviewed a number of vouchers for the Michigan Conference of Teamsters?

A Yes, I have.

Q All right, sir. And are the receipts generally attached or the bills generally attached to vouchers?

A I don't recall, Mr. Neal.

Q You don't recall whether they are or not?

A I don't recall now whether they are or not.

THE COURT: All right. Anything further of this witness? If not, may he be excused?

MR. BRANSTETTER: No. I have some questions. Could I have the original exhibit on the expenditures to Mr.

Partin? I want to ask this witness questions about book-keeping procedure.

MR. DALE: That was way back, wasn't it?

MR. NEAL: Your Honor, I wasn't even permitted to go into the other organizations, other Teamster organizations outside of the Michigan Conference of Teamsters. Now they want to take some completely -- he doesn't even work for --

THE COURT: (Interposing) I don't know what we are talking about.

MR. BRANSTETTER: I want the notebook paper.

MR. DALE: You don't know the exact number?

MR. BROWN: No. 154.

MR. DALE: 154?

End 15a
16 fls

MR. BRANSTETTER: No, 196 or 7.

Q You state you worked for the Internal Revenue Service about eleven years?

A Yes, I did.

Q Did you have experience with government accounting and government accounting practices?

A Yes, I did.

Q Does the government accounting practices require supporting receipts or vouchers for the issuance of government checks?

A To my knowledge they have always required it.

Q I hand you up here what is Exhibit No. 154 and ask you if you would take a look at it and see if it complies with the standards required by the United States Government in accounting practices?

MR. NEAL: Your Honor this is, of course, objectionable.

MR. BRANSTETTER: He is an expert.

MR. NEAL: Your Honor sustained their objection.

THE COURT: I sustained the objection. Proceed.

THE WITNESS: Will you please repeat that?

THE COURT: I sustained the objection.

THE WITNESS: I am sorry, Your Honor.

MR. BRANSTETTER: May it please the Court, counsel went to great length into what this witness knew about bookkeeping and accounting practices and seemed to try to

criticize some method here that seemed rather complete and we wanted to ask this expert witness what he knew about government accounting practices and if this complies.

THE COURT: I still sustain the objection. Proceed.

MR. BRANSTETTER: We would like this exhibit passed to the jury with the other exhibits.

THE CLERK: They are the same. This envelope.

MR. BRANSTETTER: No, the checks. This one here. If you would take it out of the envelope. Where are the checks? The checks, yes. Could we request that this exhibit be taken out of the envelope and passed to the jury as it is moving along with the others?

THE COURT: Yes. All right, anything further?

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Mallin, I will ask you, sir, if you were required by law to keep these exhibits and the records of the Michigan Conference of Teamsters Union?

A Whether I am required to keep them?

Q No. Whether they are required to keep them available for the government?

MR.NEAL: We object to that, Your Honor, as to whether they are required to or not. I don't mind if he asks him if he is required to.

THE COURT: I can't see the materiality of it.

BY MR. BERKE:

Q Have these records been available for the government inspection all the time since you made that report to the government?

MR. NEAL: Well, now, Your Honor, that is objectionable.

THE COURT: Overruled.

THE WITNESS: To the best of my knowledge, they've been available to them.

BY MR. BERKE:

Q I believe you notified the government in March, 1963 about these expenditrres.

A I brought some records down to Mr. Neal's office in Nashville.

Q Was that this Mr. Neal right here?

A Yes, it was.

Q And were these records available to Mr. Neal and to the government if they desired to use them or see them?

A They were made available to them, yes.

Q Did you ever keep any records away from the government or from Mr. Neal?

A Not to my knowledge.

MR. BERKE: All right, sir.

MR. NEAL: I have one more question based upon that.

RECROSS EXAMINATION

BY MR. NEAL:

Q Mr. Mallin, you were subpoenaed to bring all records showing the whereabouts of Larry Campbell during the months of October and November, 1962, were you not?

MR. SCHIFFER: Objected to, Your Honor, the form of that question and as to the contents of that question. Now, if Mr. Neal issued a subpoena, the best evidence is the subpoena and I want to see the subpoena from the government for this witness calling for information or the whereabouts of Mr. Larry Campbell in October and November and December, 1962.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor is sustaining the objection?

THE COURT: Yes.

BY MR. NEAL:

Q Mr. Mallin, do you know whether or not that voucher has been available to the government of your own knowledge?

A I think it has been available.

MR. SCHIFFER: May I inquire which voucher?

MR. BRANSTETTER: He said it has been available.

THE WITNESS: I think it is available.

BY MR. NEAL:

Q What do you mean you think it is available? I asked you whether you know it is available to the government

or whether it has been in existence or not?

MR. BRANSTETTER: May it please the Court, may we have counsel come back to the lectern, please?

BY MR. NEAL:

Q I want to know, sir, of your own knowledge, whether you know whether that voucher, Defendants Exhibit No. 209 has been available to the government? That voucher on Defendants Exhibit 209 has been available to the government? Whether it has been in existence or not to your knowledge?

MR. BRANSTETTER: May it please the Court--

MR. SCHIFFER: (Interposing) Objected to.

MR. BRANSTETTER: May it please the Court, he has not testified he is custodian of these records. He testified he was a certified public accountant to prepare reports required by the federal government.

THE COURT: He can answer it if he knows.

MR. SCHIFFER: May I object to the form of that question, Your Honor? Mr. Neal has already elicited from this witness that that voucher, that very voucher is based, or part of the basis for issuing a report to the Department of Labor Management Reports to Mr.Holcombe. That very thing has already been identified and has to be in existence as Mr. Neal already knows and in connection with the Labor Management Reports.

BY MR. NEAL:

Q It doesn't have to be in existence and I am asking this witness whether or not he knows of his own knowledge whether it has been in existence or not?

MR. SCHIFFER: He couldn't make his report if it wasn't in existence and Mr. Neal knows it and he is trying to confuse these issues here.

MR. NEAL: May I borrow them just a moment and we will see about that.

MR. BRANSTETTER: May it please the Court, the government is presumed to know what they must know. These records were filed with the government in March, 1963, it soon will be a year ago. Mr. Neal's department is not exempt from that knowledge. He can't now come in now and try to infer something to the contrary as a government agent. He himself is a government agent.

THE COURT: Let's move along, gentlemen.

BY MR. NEAL:

Q Mr. Mallin, I show you this report that you said you prepared for the government and I will ask you, sir, if that shows anything in there about organizing expenses on that report to Larry Campbell for the General Electric Corporation.

MR. HAGGERTY: We object to that. It has been asked and answered.

THE COURT: Overruled.

THE WITNESS: This report does not show that the expense was made for General Electric.

BY MR. NEAL:

Q Doesn't show for organizing expenses?

A Doesn't show what the expense was for.

Q Shows that check or payment was made to Larry Campbell for $428.00, is that correct?

A That is what this report shows.

MR. BRANSTETTER: The supporting documents from which it was taken shows what the payment was for. Is that correct?

MR. NEAL: Do you want to take the stand, Mr. Branstetter? We except to that, Your Honor, that is most improper.

THE COURT: Yes, disregard the statements of counsel.

MR. SCHIFFER: Your Honor, would not the record now No. 110 is he answering about? What record?

THE COURT: All right, anything further?

MR. NEAL: No further questions.

THE COURT: If nothing further, let's proceed to the next witness.

(Witness excused.)

THE COURT: Call your next witness.

End 16
16A fol.

MR. HAGGERTY: Call Mr. Larry Steinberg.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

LAWRENCE N. STEINBERG,

a witness called at the instance of the Defendant James R. Hoffa, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name, please?

A Lawrence N. Steinberg.

Q Where do you reside, Mr. Steinberg?

A 923 Richards Road, Toledo, Ohio.

Q And what is your occupation, Mr. Steinberg?

A At the present time I work for a trade union.

Q And what trade union do you work for?

A Local 20, International Brotherhood of Teamsters.

Q And what, if any, office do you hold in that union?

A I am the president.

Q How long have you been president?

A I will say approximately 20 years.

Q Now, Mr. Steinberg, in the latter part of 1962, particularly the months of October, November and December, had you any connection and, if so, in what capacity, with the International Brotherhood of Teamsters as an employee of the International Brotherhood of Teamsters?

A I was an employee of the International Brotherhood of Teamsters in the capacity of a personal representative to the General President.

Q Now, Mr. Steinberg, you are a married man?

A Yes, sir.

Q Your home is established in Toledo, Ohio?

A Yes, sir.

Q Now, during the time or during this period that we are speaking of, 1962, when you were personal representative of the president, what did those duties entail?

A You are referring to those three months specifically?

Q I am speaking of your duties in general first of all, then specifically.

A Any assignment that would be given to me by the General President it would be my duty to fulfill.

Q And in addition were you in Washington a considerable period of the time?

A Yes, sir.

Q Were you there on a weekly basis or monthly basis

or what?

A I was there on an in and out basis but I would say that I would spend the most of my days during the week in Washington.

End Tk 16A
Tk 17 fls.

Q And in addition were you sent to other places by the president as his personal representative?
A Yes, sir.
Q On union business?
A Yes, sir.
Q Now, did you go to Nashville, Tennessee?
A Yes, sir.
Q In the month of October 1962?
A Yes, sir.
Q And have you a recollection if anyone accompanied you to Nashville, Tennessee?
A Yes, sir.
Q Do you recall the date that you first got there in the month of October of '62?
A Yes, sir, I do.
Q What was the date?
A The 21st day of October.
Q And did you accompany someone to Nashville?
A From Cincinnati I accompanied the General President.
Q And that is the defendant in this case, Mr. James R. Hoffa?
A General President Hoffa.
Q Now, when you arrived in Nashville, did you meet anyone?

A Yes, sir.

Q Would you state whom?

A Gayle Wesmey, the president's secretary, was at the airport, Ewing King, there may have been others, but I don't recall their names.

Q Now, after arriving at the airport did you ride in some sort of vehicle to downtown Nashville?

A Yes, sir.

Q With whom did you ride?

A I believe we rode in Mr. King's automobile.

Q And what hotel did you go to in Nashville?

A Andrew Jackson.

Q Now, on arriving there, had there been any office set up, that is, an International office?

A There was a partial office set up.

Q Was an office then set up?

A Yes, sir.

Q That is with typewriters, all the equipment that is needed for the office, personnel and so forth?

A Yes, sir.

Q And who set that office up?

A I did and Mr. Hoffa's secretary.

Q That's Mrs. Wesmey?

A Yes, sir.

Q Now, were you in Nashville during the balance of

the month of October?

A Yes, sir.

Q Were you there during November?

A Yes, sir.

Q Were you there during December until the termination of the case?

A Yes, sir.

Q Which I believe has been testified and established as December 23rd, 1962?

A Yes, I was there.

Q Now, do you recall where Mr. Hoffa's suite was in the Andrew Jackson Hotel?

A I believe it was on the seventh floor.

Q Now, did you have a room or rooms close or adjacent to Mr. Hoffa's suite?

A Yes, I did.

Q And where was the office that was set up, the International office, was that in close proximity to Mr. Hoffa's suite?

A As I recall it, Mr. Haggerty, it would be the third room from Mr. Hoffa's suite.

Q Now, while this case was on trial in Nashville, did you fulfill your function as a personal representative of the president of the Internation union?

A Yes, I did, sir.

Q Do you know a man by the name of Edward G. Partin?
A Yes, I do.
Q When did you first meet him, your best recollection?
A I met him in the early days of our arrival in Nashville.
Q Had you known him prior thereto?
A I don't believe so.
Q Were you introduced to him by anyone?
A No, sir.
Q Or how did you meet him?
A He came into our office, the International office. I don't recall the method that was used in starting the conversation, but he seemed to know me and then he told me who he was.
Q Now, was a daily routine established by you in the operation of that office, the International office?
A Yes, sir.
Q And was a daily routine established by you in reference -- in connection with the activities of Mr. Hoffa?
A Yes, sir.
Q Now, in the morning upon arriving what time would you see Mr. Hoffa?
A Well, as a matter of fact, Mr. Haggerty, I would get up before Mr. Hoffa did and I had a key to his suite and would open the suite and try to call things to his atten-

tion that sometimes made it impossible to discuss it with him the night before and that was the routine.

Q And what time in the morning would this be as a rule?

A It was early in the morning, seven or shortly after and sometimes before.

Q Now, do you recall about what time Mr. Hoffa went to breakfast?

A Mr. Hoffa would go to breakfast around eight o'clock or sometimes before eight.

Q Did you accompany him on occasion?

A Most of the time I would accompany Mr. Hoffa, yes.

Q And would other persons accompany him to breakfast?

A As I recall, there were other persons, yes.

Q And do you recall that he sat at the same table in the same dining room at the Andrew Jackson Hotel in Nashville every day that he was there?

A I would say yes, sir.

Q That is at breakfast time?

A Yes, sir.

Q Do you recall whether or not it was a large table?

A There would be several tables put together, yes.

Q And there would be a large number of people that he would be with each and every morning?

A Yes, sir.

Q Now, after breakfast, is it within your knowledge where Mr. Hoffa went; after breakfast, did he return to his suite?

A It depended a great deal on the time consumed in the coffee shop, sometimes they would pursue to court directly from the coffee shop and sometimes he would return back to his suite.

Q And did you accompany him to court?

A On several occasions, yes, sir.

Q On the occasions that you did not accompany him to court you returned to your duties in the International office?

A Yes, sir.

Q Now, have you knowledge of the fact of the time that the court commenced in Nashville, Judge Miller's court?

A Yes, I believe I do.

Q And what time was that?

A I would say ten o'clock.

Q Well, I think from the record you would be an hour out, it started at nine o'clock.

A Nine o'clock?

Q Yes.

A I thought it was ten.

Q Now, do you know what time Judge Miller adjourned

court?

A I believe around one o'clock or shortly after.

Q And have you any personal knowledge of the fact that before returning to the Andrew Jackson after court luncheon was had by Mr. Hoffa accompanied by many others before he returned to the Andrew Jackson?

A When I was there, that is what happened, yes, sir.

Q So about what time in the afternoon would Mr. Hoffa return to the Andrew Jackson?

A When I was with Mr. Hoffa we would walk down to an Italian restaurant.

Q Yes. And after you ate, then what happened?

A Accompanied by his attorneys and after we ate we would walk back to the Andrew Jackson.

Q And about what time would you get to the Andrew Jackson, do you recall?

A My guess would be between 2:30 and 3:00 o'clock.

Q Now, upon return to the Andrew Jackson, what did Mr. Hoffa do to your knowledge?

A Well, sir, it was routine.

Q All right, what was the routine?

A That was our opportunity to sit down and discuss with Mr. Hoffa the problems of our union, show him some of the correspondence, have him sign documents, and sometimes if there weren't too many he would go into the -- I believe it was

the Elk's Club next door and go in there in the steam room.

Q Did you accompany him?

A On many, many occasions I have, sir.

Q And is it within your knowledge if you didn't accompany him someone else did, that is, from the group?

A I have observed --

MR. NEAL: (Interposing) He is asking for a little bit of incompetent testimony there, isn't he?

MR. HAGGERTY: If it is within his knowledge.

THE COURT: Proceed.

End 17a
18 fls

Q Now, did you answer the question?

A No, sir.

Q Would you answer that?

A To the best of my knowledge he was accompanied by others.

Q Now, about what time would Mr. Hoffa on the occasions that he went to the Elk's Club, what time would he return to the hotel? The Andrew Jackson Hotel, that is, his suite?

A My guess would be about an hour and fifteen minutes. An hour and a half.

Q Now after he returned from the Elk's Club, do you know why he went over there? To the Elk's Club? Do you know what he did over there?

A Yes, I do.

Q What did he do?

A He would be in the steam room and get a massage and turn around and go back.

Q Now, after he returned from the Elk's Club on those occasions that he went, or if he continued working, what time would he go to dinner in the evening?

A Well, that varied, sir. There was no specific time schedule for having dinner. But it depended on how many calls he had to make when he returned and at times he would normally get into a conference with his attorneys and then go

to dinner. He didn't have any specific schedule as far as dinner was concerned.

Q And would he be accompanied by other persons when he went to dinner?

A Yes, sir.

Q Did you go with him on many occasions?

A On many occasions, yes, sir.

Q Attorneys would go?

A Yes, sir.

Q And other persons that were engaged?

A Yes, sir.

Q Personnel of the International?

A Yes, sir.

Q Now, after that where did he go?

A Well, as a rule he would go right back into conference with his attorneys.

Q And that conference with his attorneys in the evening would last until what time?

A Well, sometimes until twelve, one, two, three o'clock in the morning.

Q And did you after the attorneys had left have any conversation with him?

A Whenever I was in Nashville I would be the last one to talk with him before he went to bed, yes, sir.

Q And on some occasions did you have union business

to discuss?

A Our discussions was always in connection with union business.

Q Were there papers for him to sign that late at night or early in the morning?

A Yes, sir. Yes, sir.

Q And that was about the daily routine, is that true?

A That would be a correct statement.

Q Now, did you spend a great deal of time in Mr. Hoffa's suite on the business of the International with him?

A Yes, sir.

Q Do you recall of ever seeing Ed Partin in the suite? Have you a definite recollection?

A I don't have any definite recollection of any specific recollection of Ed Partin being in his suite.

Q Now, did you see Ed Partin around the hotel other than in Mr. Hoffa's suite?

A Yes, sir.

Q On many occasions?

A Yes, sir.

Q When would you usually see him, taking a day, or one day, when would you usually see him?

A Well, sir, it seemed that he would be there early

in the morning almost about the same time that I was up. Bring me my newspaper and have one for Mr. Hoffa. And it was on an in-and-out basis. I didn't particularly keep track of his --

Q (Interposing) Now, when you say he was there he was in, was he in the office of the International or your bedroom?

A I don't recall ever seeing him in my bedroom, no, sir.

Q Where did you see him when you say he brought the paper in the mornings?

A Mr. Haggerty, you would see Ed Partin all over but most of the time he would come into our office.

End 18
18a fls

Q Did you have any talks with Ed Partin while he was there?

A Yes, sir, I have.

Q Did you ever have any talks concerning his personal affairs and union affairs?

A Yes, sir. Not personal.

Q Not personal, just union affairs?

A Yes, sir.

Q What did he ever tell you about the condition or in reference to his condition of his local union No. 5 at Baton Rouge?

MR. HOOKER: We object to that, Your Honor.

MR. NEAL: We object to that, Your Honor.

MR. HAGGERTY: I think that is material.

MR. NEAL: How is it material?

THE COURT: Overruled.

BY MR. HAGGERTY:

Q What did he ever tell you, do you recall?

A I don't recall any details but he seemed to have some--

MR. HOOKER: We object to what he seemed to have.

MR. HAGGERTY: Not what he seemed to have.

BY MR. HAGGERTY:

Q But what he said, Mr. Steinberg.

THE COURT: Sustained.

BY MR. HAGGERTY:

Q Your Best recollection.

A He would discuss with me the position of his local union. Or he did discuss with me the problems of his local union on a couple of occasions.

Q Do you recall what he did say?

MR. HOOKER: We object to it.

BY MR. HAGGERTY:

Q Your best recollection.

A To the best of my recollection he talked to me about some of his difficulties with some of the indictments.

MR. HOOKER: If Your Honor please, we want to object to this on the grounds there has been no foundation laid for it. It is a collateral matter.

MR. HAGGERTY: I think it is proper.

MR. HOOKER: It is incompetent.

MR. HAGGERTY: You don't have to lay a foundation. It is not impeachment.

THE COURT: Well, it is time for the noon recess. I'm going to excuse the jury at this time and ask them to be back at 1:30 and observe the usual instructions about not discussing the case. Don't allow anyone to talk with you about it. All right.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence the following

proceedings werehad, to-wit:)

MR. HOOKER: We would like the witness to be instructed, if Your Honor please.

THE COURT: All right, Mr. Steinberg, do not discuss your testimony or allow anyone to talk with you about your testimony.

THE WITNESS: Sorry, sir.

THE COURT: I say, do not discuss your testimony or allow anyone to talk with you about your testimony during the noon recess.

THE WITNESS: Yes, sir.

THE COURT: You may also be excused until 1:30, sir.

THE WITNESS: Yes, sir.

(Thereupon, the witness was temporarily excused.)

THE COURT: All right, gentlemen, are all the exhibits accounted for?

THE CLERK: Yes, Your Honor.

THE COURT: Mr. Haggerty, I'm going to turn over to the reporter the records you requested this morning and ask the reporter to make the usual distribution of them.

MR. HAGGERTY: Very well.

THE COURT: If nothing further, let's adjourn court until 1:30.

(Thereupon, at 12:05 p. m., February 24, 1964, court was adjourned until 1:30 for the noon recess.)

AFTERNOON SESSION

1:30 O'Clock, A. M.
February 24, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates returned into open court and in their presence the following further proceedings were had and evidence introduced to-wit:)

THE COURT: May we have the witness returned, please?

LAWRENCE M. STEINBERG,

a witness called at the instance of the Defendant Hoffa, having been previously duly sworn, was recalled and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Mr. Steinberg, at recess you were just relating that you had some conversations with Mr. Partin wherein he discussed his affairs with you, do you recall that?

A Yes, sir.

Q What affairs did he discuss with you?

MR. HOOKER: We object to that.

THE COURT: Overruled.

A He discussed very briefly problems that existed in his local union and some of the problems that he has with

the government.

Q Now, Mr. Steinberg, do you recall a period when Mr. Partin obtained a table from some source and set it outside of Mr. Hoffa's door to his suite?

A Yes, sir.

Q Do you know who authorized him so to do?

A No, sir.

Q And he acted as a guard for people coming in and going out, is that true?

A Yes, sir.

Q Was that limited to any particular period of the day?

A I would be guessing, Mr. Haggerty, I think it was in the late afternoon.

Q And have you knowledge of the people that were in with Mr. Hoffa at that time?

A I believe, Mr. Haggerty, that Mr. Hoffa was closeted with his attorneys at that time, I don't know who was there because he stopped me from going in.

Q In other words, he had taken over and was superior to you, was that right?

A Yes, sir.

Q Now, Mr. Steinberg, it has been testified by Partin, page 3284 of the transcript, in reply to a question addressed to him by Mr. Hooker, "Question: Was Mr. Steinberg

present when you were talking to Mr. Hoffa or what did take place about that time?"

The record refers to the period Exhibit 100, which was between the 4th of November and the 7th of November, 1962.

And Mr. Partin made this answer, "Steinberg, as I recall, was standing inside of Mr. Hoffa's room with him and I went to the door and told Mr. Hoffa I was fixing to leave and was talking to him in general. He asked me to come in and motioned to Mr. Steinberg to step out."

Do you recall any incident where such as a thing as that occurred?

A Certainly do not.

Q And that is your best recollection?

A Yes, sir.

MR. HAGGERTY: You may examine the witness.

End 19
20 fls

THE COURT: Is there any further examination by any defendants? All right, Mr. Hooker, you may cross examine.

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Steinberg, do I understand you to say that you recall definitely that that did not happen? Or that you just don't remember it?

A I don't recall the incident that Mr. Haggerty just referred to.

Q You don't recall it?

A No, sir.

Q Now, you did see Mr. Partin at the hotel from the beginning of this trial, did you not?

A When you say the beginning, you mean the very first day?

Q I mean, beginning with October 22, 1962, do you remember seeing Mr. Partin that day?

A I don't recall seeing him that day. I recall he was there in the early days of the trial.

Q Do you recall that he was there most of the time of the trial, a good part of the time, I will phrase it that way.

A Sir, he was there fairly often.

Q Sir?

A He was there fairly often.

Q Would you say that practically every week during the trial that he was there some part of the time?

A I would say so, yes.

Q And was living at the Andrew Jackson Hotel? Did you know he had a room at the Andrew Jackson Hotel?

A I believe he had a room at the Andrew Jackson, yes, sir.

Q And you would see him frequently as I understand it early in the morning when he would come up from downstairs and bring a newspaper, one for you and one for Mr. Hoffa?

A Yes, sir.

Q And he came and went as he pleased in the suite pretty largely, did he not?

A I would say he came as he pleased into my office. Whether he would go in in the suite freely, at the same time, I really don't know.

Q Much of the time you would be down at your office?

A Yes, sir.

Q Which was another room, as I understand it, in the Andrew Jackson Hotel probably three or four doors from the suits?

A It was the third door, I believe.

Q Third door down; now, Mr. Hoffa's suite to refresh your recollection was what is known as entrance to it as 740, the Andrew Jackson Hotel, wasn't it?

A I believe you're right, sir.

Q And you went in that room there at 740 and into a sort of a passageway, and into a rather large living room-type quarters?

A Right, sir.

Q And then as you went through the living room and back to the right there was the room occupied by Mr. Hoffa as the bedroom?

A Yes, sir.

Q And then as you went in that same door off to the left was another bedroom that was occupied by Mr. Bufalino?

A Yes, sir.

Q And you have seen Mr. Partin in that big living room?

A I may have seen him in the big living room.

Q Do you know whether you have seen him or not in the room that I refer to as being the bedroom occupied by Mr. Hoffa?

A No, sir, I don't recall that.

Q You don't recall that?

A No, sir.

Q And you say that at least part of the time that he had a table that was right at the entrance just inside of the door to 740, was it not?

A Yes, sir.

Q And you would see him there sitting there in the afternoon particularly late afternoon I believe you said?

A That's right, sir.

Q At a time when Mr. Hoffa would be there at the hotel?

A That's right, sir.

Q And there was no secret about Mr. Partin being there and sitting there at the door, everybody I take it that was in and around there saw him?

End 20 A That's right, sir.

Tk 21 fol.

Q Now, did you have conversations with him?

A I had some conversations with him, yes, sir.

Q Did you ever see him have any conversations with Mr. Earl King, I mean Ewing King?

A If he did I don't recall him talking to Ewing King.

Q Did you see Mr. King ir and around the suite where Mr. Partin was there?

A I don't recall that incident.

Q Did you ever know of any conversations with Mr. Ewing King?

A Yes, I have.

Q Frequently?

A Frequently.

Q Did you ever discuss with him the proposition that one of the ladies on the jury's husband was a member of the Tennessee Highway Patrol?

A No, sir, I did not.

Q Mr. King didn't talk to you about that?

A No, he didn't.

Q Were you there on or about November the 27th?

A What day would that be on, sir?

Q November the 17th, that would have been November the 17th, was on a Saturday.

A I really don't recall if I was there on November

the 17th.

Q Well, to refresh your recollection I hand you here a document. I will ask the Clerk to mark that first.

MR. DALE: 211, your Honor.

(The document referred to above was marked Government's Exhibit No. 211 for identification only.)

BY MR. HOOKER:

Q I ask you if this is a copy of your hotel bill?

A I would say yes, sir.

Q It would appear from that that you were there on the 16th, the day before the 17th, the 17th and Sunday, the 18th, would it not?

A Well, Mr. Hooker, may I make an explanation before I give you this answer, that upon my arrival on the 21st day of October I never checked out until after the trial, so this bill wouldn't necessarily prove that I was in town on November the 17th.

Q What is your recollection about it?

A I don't recall if I was there because I tried to usually go home on weekends. Now, some weekends I didn't.

Q So you don't--I don't notice any charges on there that day is what I was really looking to see here. You don't recall whether you were here that day or not?

A Sir, I really don't.

Q All right. Did Mister--I was about to put this

up. Let me give it back--did Mr. King ever discuss with you a trip to Woodbury?

A No, sir.

MR. HOOKER: Just give it to the Clerk.

BY MR. HOOKER:

Q He never mentioned it to you?

A Never mentioned it to me. I don't even know where Woodbury is.

Q Ever mention anything to you about a beagle hound dying?

A I beg your pardon?

Q Ever mention anything to you about a beagle hound dying?

A No, sir.

Q Didn't discuss that with you?

A I don't believe he has, no, sir.

Q Now, did you meet Mr. Tweel when he came to Nashville?

A I did not.

End Tk 21
Tk 22 fls.

Q You didn't see him to your knowledge?
A I believe I saw him once but I never met the gentleman.
Q Where did you see him?
A I believe I saw him once in the lobby of the Andrew Jackson Hotel and I'm not sure of that but I never met the gentleman.
Q Do you recall who was with him?
A No, sir, I do not.
Q Did you see Mr. Dorfman in Nashville?
A Yes, sir.
Q How frequently during the trial did you see Mr. Dorfman down here?
A I saw him frequently.
Q Frequently?
A Yes, sir.
Q Was he here on the first day of the trial, that is, November 22nd? I mean, October 22nd, 1962?
A Sir, I don't recall that.
Q You don't recall, but you did see him frequently during the trial?
A Yes, sir.
Q On one occasion did you --, did you go to O'Brien's Beefery with Mr. Hoffa and others on the evening of November 27th for dinner?

A Was your question on what occasion?

Q Yes, well, on the occasion of the 27th, but I will ask you in this connection, did you go with him on any occasion when you stopped on the way back at the Union Station and had some discussion there about the height of the station?

A No, sir, I was not present.

Q You were not with them that time?

A No, sir.

Q You had, I guess, on other occasions been to O'Brien's Beefery with Mr. Hoffa and the other members of his party to meals?

A Yes, sir, I have, sir.

Q Well, Mr. Steinberg, you said that you didn't recall the incident that you were asked about, about stepping out of the room when Mr. Partin was leaving, there was a good portion of the time all the time here, at the Andrew Jackson Hotel when you were down in the office of the International Teamsters Union transacting your business?

A Yes, sir.

MR. HAGGERTY: We object to that as having been asked and answered.

THE COURT: Overruled.

BY MR. HOOKER:

Q And what conversations went on or what was said or done there in the suite when you were away and in your

office, of course, you have no knowledge of that?

A That's right, sir.

Q And was Mr. Partin when he was sitting there at the table at the door in the plain view of everybody that came in and out of the suite?

A I'm sorry, I didn't hear you.

Q I say, Mr. Partin, when he was sitting there at the table at the door was he in plain view of everybody that came in and out of the suite?

A Yes, sir.

Q Were you at the Erlanger Airport at Cincinnati with Mr. Hoffa on Sunday, October 21, 1962?

A Yes, sir, I was, sir.

Q Did he make a call there at the telephone -- a telephone call from the Erlanger Airport?

A I don't recall Mr. Hoffa making any telephone calls. I arrived from Toledo that morning. And Mr. Hoffa arrived from Detroit. Upon my arrival, Mr. Hoffa was already at the airport.

Q Already there and what calls he made, of course, you don't have any knowledge of them if he made any?

A No, sir.

Q Do you know what credit card he was using at that time?

A I wouldn't know.

Q Would it be a credit card--, do you know what the credit card that he normally used with the union is, what the prefix to it is?

A I know the prefix of the International telephone credit card.

Q Is it B4?

A I wcouldn't know that, I can only give you the first six digets.

Q Well, is it a card that he used of a suffix of B4?

A I wouldn't know that, sir.

Q You don't know. Do you remember the number of the union's credit card at that time?

A Well, I assume that everybody's credit card starts with 783-0525 then the balance of each card has a different letter and a different number.

Q Have a single letter and a single number?

A Yes, sir.

Q And B4 could be one, you just don't remember about that?

A I don't believe I ever knew what his letter and number was.

Q That would be the type of thing, B4 or C4 or something?

A Yes.

Q Some letter, then a number?

A Yes, sir.

Q Did Mr. Hoffa ever make any remarks to you about Mr. Partin sitting there at the door at the table?

A No, sir.

Q How much of the time would you say during the course of this trial that Mr. Partin was there at the door to the suite in a chair with a table and late in the afternoon in particular?

A As far as I can recall, Mr. Hooker, that was only on one occasion that he actually sat in the position you just described.

Q But did he stand there at the door on other occasions?

A I don't recall any of the occasions.

MR. HOOKER: You don't? All right, that's all.

REDIRECT EXAMINATION

BY MR. HAGGERTY:

Q Mr. Steinberg, do you know of any reason for a guard being placed outside of the door leading into Mr. Hoffa's suite?

A No, sir.

MR. HAGGERTY: No further questions.

THE COURT: All right. You may be excused.

(Witness excused.)

MR. HAGGERTY: Call Raymond Bergan, please.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. BERGAN: I do.

MR. DALE: Have a seat.

RAYMOND W. BERGAN,

a witness called at the instance of the Defendant Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name in full, please.

A Raymond W. Bergan.

Q Where do you reside, Mr. Bergan?

A I live in Arlington, Virginia.

Q Now, what is your occupation, Mr. Bergan?

A I am an attorney.

Q Attorney at law?

A Yes, sir,

Q And how long have you been an attorney?

A I was admitted to the bar in 1954.

Q Are you associated or a partner in a law firm?

A I am.

Q And what is the name of the firm?

A Firm of Williams, Wadden and Stein in Washington.

Q And that is the firm that is headed by Edward Bennett Williams?

A Yes, sir.

Q Now, did you have occasion to meet one by the name of Edward Grady Partin?

A I have.

Q And what reason was there for your meeting him?

A Mr. Haggerty, there is a question of privilege at this point that I would like to get a ruling on, if I may.

Q You would like the Court to make a ruling?

A Yes.

Q You would like a voir dire and have the jury excused?

End 23 A If I may, sir.

Tk 24 fol.

MR. HAGGERTY: Your Honor--

THE COURT: All right. Ladies and gentlemen, step out while we determine this legal question.

(Thereupon the jury of 12 and 4 alternates retired from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: All right, Mr. Haggerty.

MR. HAGGERTY: Mr. Bergan, it has been testified to by Partin on examination that he conferred with representatives of Williams' office. Were you that representative?

A I did confer with him once, yes.

Q Where did you confer with him at?

A In my office in Washington.

Q Washington, D. C.?

A Yes, sir.

Q Now, it has been testified further by the Witness Partin that he took up the matter of his difficulties over a 26-count indictment issued by a grand jury at New Orleans and he said that he was advised by the attorney that he had no cause of worry. Do you recall any such incident?

A Well, I recall that he came to see me.

MR. NEAL: Just a moment, Mr. Bergan, if that is in the nature of offer of proof I can't see any relevancy to that. That is certainly a matter, collateral matter, may I make my objection, Mr. Haggerty?

MR. HAGGERTY: Yes. Sure.

MR. NEAL: Sure, the fact that a federal indictment is pending against a government witness can be shown to the extent or for the basis for argument that the witness is biased, in favor of the government. That has been gone into over and over and over again. Now, anything else about the federal indictment pending against this man, a mere indictment pending against this man, is completely irrelevant.

THE COURT: Well, I am unable to determine yet. Let's proceed.

BY MR. HAGGERTY:

Q Did you advise Partin that he had no cause to worry because of the return of the 26-count federal indictment against him?

MR. HOOKER: Just a moment, Mr. Bergan, we object on the further grounds that it is clearly privileged, if your Honor please. Attorney-client relationship. This gentleman said there was a privilege involved and I think he is clearly right about it and it is inadmissible.

MR. HAGGERTY: That is the issue we are trying, I believe. Now, may it please the Court, this is as far as I will go. Mr. Bergan hasn't answered the question yet.

BY MR. HAGGERTY:

Q Will you answer the question? Did you advise Mr. Partin that he had nothing to worry about with the

26-count federal indictment against him?

A I did not.

Q What did you advise him? Or what did you say to him?

A I don't have, Mr. Haggerty, any specific recollection of the details of the conversation. However, I can say that I did not advise him as in fact I have never advised any client with a 26-count federal indictment that they had nothing to worry about as a result of the indictment.

MR. HAGGERTY: Now, may it please the Court, is the proof to be adduced from this witness. Mr. Partin says, first of all, first of all as to privilege, he has stated that he had a conversation with his lawyer in reference to a 26-count federal indictment. And I say he has released the privilege when he has said that the lawyer advised him. Now, we are not going into what Mr. Partin said to him. We are going into what the lawyer advised him and he said that the lawyer advised him that he had nothing to worry about. It is solely for the purpose of rebutting that testimony that no such statement was made or no such advice given by Mr. Bergan.

THE COURT: All right.

MR. HAGGERTY: That is the sole purpose of it.

THE COURT: Do you have any authority you want to submit to the Court, Mr. Bergan?

THE WITNESS: No, sir, I am here for advice more than anything else, sir.

THE COURT: All right, is there any authority either counsel have?

MR. NEAL: I might ask Mr. Bergan if he thinks this is relevant testimony.

MR. HAGGERTY: Well, I object to that. To ask a witness if that is relevant testimony, that can only come out of the brain of an eel.

MR. NEAL: Thank you very much, Mr. Haggerty. He vouches for my brain coming out of my brain.

THE COURT: Sustain that. Stay on the issues of the case.

MR. HOOKER: If your Honor please, this is clearly a collateral matter. In addition to that I never did hear of determining anything privileged by proving what was said and passing on it. I thought that if it was privileged it is privileged and not to be testified before the Court. We think this is clearly privileged on both grounds that it was privileged communication. That it is purely a collateral matter on which we are bound by Partin's testimony and that they cannot now come with all of these collateral things and try a dozen lawsuits in this one here. We are trying only one case here and this just gets into a now another proposition and we object to it.

MR. HAGGERTY: Now, may it please the Court, first of all, I claim there is a release of his privilege by his taking the stand in open court and testifying under oath as to what Mr. Bergan said. I say that opens the door to privilege. In the next place, in the next place, your Honor, it is contradictory in a material matter. The material matter being that he at that time before and in the presence of the jury was stating in effect there is nothing to this 26-count indictment. I have even been advised by legal counsel that there is nothing to it. Now, that is a direct material on truth. On the contrary he was not so advised by legal counsel and I say it is admissible on both grounds.

and Tk 24
Tk 25 fls.

First of all, we are not limited, as Mr. Neal would have us believe, to bias. There is a whole string, intent, prejudice, motive, all of these, bias, prejudice, there's at least five or six different elements that go in for the purpose of impeaching a witness.

THE COURT: What was the citation from the transcript that you used, Mr. Haggerty, do you have that?

MR. HAGGERTY: No, I haven't, I haven't that handy, your Honor. We can get it very quickly. No, that was for Mr. Steinberg.

THE COURT: I am sorry.

MR. HAGGERTY: That was for Mr. Steinberg.

THE COURT: Yes.

MR. NEAL: May I point out in this respect, your Honor --

MR. HAGGERTY: (Interposing) Do you want the podium, Mr. Neal?

MR. NEAL: No, I can stand up on my own two feet.

MR. HAGGERTY: That's surprising.

MR. NEAL: Your Honor, if Mr. Partin had said, "When I was in Nashville I wore a green sweater," I am sure Mr. Haggerty could get someone to come in and say, "Actually I saw him and the sweater was brown." He would say this was a material matter and goes to the motive and intent and prejudice and all these other things.

This is the same thing, certainly if the Witness Partin denied that there was a federal indictment pending against him, 26 counts, there is no question that they would be entitled to prove that pending federal indictment, not state indictment, but a pending indictment by the same government that puts him on the stand as a witness, but whether or not he might have inferred from what Mr. Bergan said, and what Mr. Bergan said, if he didn't say it I am sure he didn't say it, but that doesn't mean when the Witness Partin didn't infer what Mr. Bergan was saying that there was not a good case, as a matter of fact, the International dismissed the charges as being without foundation.

This man and his counsel represent the International. Certainly the fact that Mr. Partin inferred and so testified that his counsel told him he had nothing to worry about is clearly a collateral matter, it doesn't go to bias or prejudice, it doesn't go to the issue of the lawsuit, it's like testifying that he wore a brown sweater and somebody contradicts him.

MR. BERKE: Your Honor --

MR. SILETS: (Interposing) Your Honor, may I lend my small voice to this? The theory of the defense, your Honor, is that Mr. Partin is testifying and giving this evidence for the purpose of obtaining some sort of peace from the government so that the government will not proceed with

him on the various actions they have pending.

Now, your Honor, in answer to this theory of defense and examination of Mr. Partin, Mr. Partin said, "I don't have to worry about the 26-count federal indictment because I was advised by Bennett Williams' firm that there was nothing to worry about."

Now, this goes to the very heart of our defense that, in fact, he was buying his peace because he, in fact, had something to worry about, and, your Honor, we are entitled to establish that by creditable, competent evidence.

In addition, it just so happens that this, by this gentleman's testimony, he is also establishing an inconsistency in Mr. Partin's testimony but it's a double-barreled approach.

First that he did, in effect, had something to worry about and that he was so advised by counsel and he, in fact, has something to worry about and that is why he is giving this kind of testimony. He is buying his peace with the government and, secondly, that he did testify falsely in his direct testimony.

THE COURT: All right. I believe I will --

MR. BERKE: (Interposing) If your Honor please, we also want to challenge, of course, Mr. Neal in the presence of the press and everybody states here that Mr. Hoffa of the International had dismissed all these charges against him. It

is not true, if your Honor please, and these are collateral matters that call upon us now to answer.

Mr. Neal, if he would just stick to the issue about which the Court is considering the objection --

THE COURT: (Interposing) All right.

THE WITNESS: May I add --

THE COURT: (Interposing) I believe I will sustain the objection at this time but ask the witness to remain available until after the next recess, at which the Court should like to check some further authority.

MR. HAGGERTY: May we dispose of it by the recess? The witness advises he has to be in court in Washington by tomorrow morning, he has to catch a five o'clock plane.

THE COURT: I will at the recess take the matter up further.

While the jury is coming in and the next witness is coming in --

MR. SILETS: (Interposing) Just so that the Court may have some authority on the waiver problem, when a client testifies and reveals a portion of the communication that has been held, of course, to be a waiver, I cite United States versus Monte (spelling) M-o-n-t-e, 100 Fed. Supp. 209 and Mageda versus Continental Can, 12 Federal Rules Decision 74 at page 77.

THE COURT: All right. Well, you may step down,

sir. If you will remain available. While we have the jury and the next witness in just be at your leisure a moment.

(Thereupon, a short recess was had.)

MR. HAGGERTY: Mrs. Gayle Wesmey.

THE COURT: Mr. Haggerty, if you could in the meantime furnish the Court with any reference to the transcript.

MR. HAGGERTY: We are looking it up.

THE COURT: I would appreciate that also.

MR. HAGGERTY: Thank you, your Honor.

THE COURT: Are we ready to proceed? If so, have the jury return.

MR. DALE: You may stand up and raise your right hand. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MRS. WESMEY: I do.

MR. DALE: Have a seat.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had and evidence introduced, to-wit:)

End 25
26 fls

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and the following proceedings were had, to-wit:)

THE COURT: All right, you may proceed.

MRS. GAYLE WESMEY,

a witness called at the instance of the Defendant James R. Hoffa, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name please?

A Gayle Wesmey.

Q How do you spell your last name?

A (Spelling) W-e-s-m-e-y.

Q And how do you spell your first name?

A (Spelling) G-a-y-l-e.

Q Now, where do you reside?

A 5084 Silver Hill Court, Suitland, Maryland.

Q And is it Miss or Mrs.?

A Mrs.

Q Now, by whom are you employed?

A International Brotherhood of Teamsters.

Q How long have you been so employed?

A Three years.

Q And at the present time what position do you hold

in that organization?

A I'm head of our out-of-work benefits department.

Q And you have a department under your direction?

A Yes, sir.

Q Now, do you recall the months of October, November, December, 1962?

A Yes, sir.

Q And at that time were you employed by the International Teamsters?

A Yes, sir.

Q Were you ordered to go any place?

A Yes, sir.

Q Where were you ordered to go?

A Nashville, Tennessee.

Q Upon arriving in Nashville, Tennessee, did you meet anyone?

A Yes, sir.

Q And who did you meet?

A Mr. Hoffa. Mr. Steinberg.

Q And where did you meet them in Nashville?

A At the airport.

Q Were you conveyed from the airport to the hotel?

A Yes, sir.

Q Do you know who was driving the automobile?

A Yes, sir.

Q Who was?

A Mr. King.

Q Now, when you arrived at the hotel,what day was it?

A October 21st.

Q And was an office set up when you arrived there?

A It was partially set up, yes, sir.

Q Did you and someone else complete the setting up of the office?

A Yes, sir.

Q Now, do you recall the day of the week October 21st fell on?

A It was a Sunday as I recall.

Q Now, what were your duties? What were your duties at Nashville?

A Secretary to Mr. Hoffa.

Q Now, will you describe the routine of your day and night?

A We arose early. I usually had breakfast in the office. Took care of phone calls. Correspondence. Various secretarial duties.

Q Do you recall that in the morning around the suite there was--, around Mr. Hoffa's suite and others' rooms there was considerable excitement?

A Yes, sir.

Q What did that excitement consist of?

A Last minute preparations for court.

Q And so it will be understood, Mr. Hoffa had a suite?

A Yes, sir.

Q And it has been testified that it was No. 740?

A I don't recall the room number.

Q You do not know. All right. Now, were there other persons on that floor that were connected with the case?

A Yes, sir.

Q Could you name some of them?

A Well, the attorneys. Yourself. Mr. Bufalino. Danny Maher. Your assistant, Mike.

Q Mike who? Mike Doelle?

A Yes.

Q Go ahead.

A Mr. Steinberg. Chucky O'Brien. Tom Osborn. Myself. I don't recall anyone else. There may have been others.

Q Mr. Kossman, as a matter of fact, to refresh your recollection was in and around to be heard, isn't that true?

A Yes, sir.

Q And he was on a different floor, however.

A Yes, sir.

Q Now, do you recall that in the suite proper of Mr. Hoffa the name of the attorney that occupied a separate room but within the suite?

A Mr. Bufalino.

Q And Chucky O'Brien usually slept where?

A With Mr. Hoffa.

Q In the same bedroom?

A Yes, sir.

Q Now, we have got you up in the morning and when you had your breakfast and going to court. Now, what were you to do, your duties then, and what did you do?

A Well, I took care of messages on any and all phone calls that if and when Mr. Steinberg was not in the office I took telephone messages. Took care of any correspondence that was left over from the day before. I got to the other incoming correspondence and anything else that had to be done there in the office.

Q Now, have you an independent recollection of the customary time that Mr. Hoffa went to court?

A As I recall it was sometime prior to nine o'clock.

Q And do you recall that when he went to court whether or not he was accompanied by others?

A I do not know, sir. I never went to court in the morning.

Q Do you recall what time Mr. Hoffa returned from

court and returned to his suite?

A Sometime early in the afternoon.

Q When you say early afternoon, what time do you mean?

A Approximately one-thirty or two o'clock.

Q And when Mr. Hoffa returned to his suite, did you enter the suite?

A Yes, sir.

Q What was the purpose for your entering the suite?

A To give him his telephone messages and to sit down and go through mail.

Q Did he give you dictation at that time?

A Yes, sir.

Q And how much time would that consume on the average?

A It would vary.

Q Your best recollection.

A An hour maybe. I'm guessing.

Q You are guessing?

A I'm guessing.

Q Sometimes longer?

A Sometimes longer. And sometimes not that long. It would vary.

Q And then after Mr. Hoffa had dictated to you, did he continue to confer with Mr. Steinberg for awhile?

A There was some correspondence that he would turn over to Mr. Steinberg, yes, sir.

Q And after that do you know whether or not--, strike that. Do you know if Mr. Hoffa left the hotel and went some place in the afternoons?

MR. NEAL: I wonder if Mr. Haggerty would object to these leading questions?

MR. HAGGERTY: I don't think it is leading.

THE COURT: Well, I will let her answer it. It is somewhat leading. Proceed.

THE WITNESS: As I recall, there were some later afternoons when I believe he left the hotel, yes, sir.

BY MR. HAGGERTY:

Q Do you know where he went? Only of your own knowledge?

A No, sir.

Q Now, have you any recollection if he returned to the hotel?

A Yes, sir.

Q And do you know if anyone was with him consulting with him after he returned?

A Yes, sir.

Q Who was consulting with him?

A His attorneys.

Q And do you know what time he went to dinner?

A I would have to guess because it varied.

Q I don't want your guesses. You either know or you don't know.

A I do not know.

Q You do not know. All right.

A Yes, sir.

End 26

27 fol.

Q Now, do you know anything about Mr. Hoffa's schedule and what he did in the evenings after he returned from dinner?

A Yes, sir.

Q What do you know, would you tell us in your own words?

A It was a normal procedure for him to go into conference with his attorneys preparing for court the next day.

Q Now, how late would those conferences run, do you know?

A Ten, eleven, twelve, one o'clock.

Q Now, did you see a man that was identified as Partin in Nashville?

A Yes, sir.

Q Were you ever introduced to him?

A I am sure I must have been.

Q Have you any recollection?

A I don't recall an introduction, no, sir.

Q Now, did he ever visit your office, which was the International office?

A Yes, sir.

Q On many occasions or few occasions?

A I recall only a very few occasions.

Q And do you know his purpose in visiting your

office?

A He would bring a newspaper in.

Q That would be in the morning or at night or when?

A In the morning.

Q Now, do you recall--you have stated that the 21st of October fell on a Saturday, therefore, Monday would be the 22nd, the 23rd and the 24th of October, the first four days of the week, do you recall at that time if Mr. Hoffa had a schedule in the afternoons different than he did after the case got underway?

A Yes, sir.

Q What was his schedule for those four days, in your best recollection?

A He immediately went into conference with his attorneys.

Q At what time?

A After returning he would try to clean up the telephone calls and the mail and then immediately I was instructed that he was not to be disturbed, to hold his phone calls and he would go into conference with the attorneys.

Q And how late would those conferences last, particularly on the 22nd, 23rd and 24th?

A Right up to dinnertime.

Q And would you fix "dinnertime" in your best recollection?

A I would say seven o'clock at the earliest.

Q And then would he leave the hotel?

A Sometimes and sometimes not.

Q Now, do you know on those days in question, the 22nd, 23rd and 24th and the 21st, if you remember, what he did in the evenings after he returned from his meal?

A Yes, sir. Again there were conferences with the attorneys preparing for the next day in court.

Q And that lasted for--did it last on those days that I have indicated?

A As far as I remember, yes, sir.

Q Did you ever have any conversations with Mr. Partin?

A I am sure I must have.

Q Do you have any recollection of them?

A No, sir.

Q Did you occasionally go out with all of the men and eat?

A Yes, sir.

Q You were the belle of the ball?

A (No response.)

MR. HAGGERTY: No further questions. You may examine.

THE COURT: Any further questions? If not, you may cross examine.

MR. HOOKER: No questions.

(Witness excused.)

MR. HAGGERTY: Call Mr. Duffy to the stand, please.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. DUFFY: I do.

MR. DALE: Have a seat.

PETER EDWARD DUFFY,

a witness called at the instance of the Defendant Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name in full, please?

A Peter Edward Duffy.

Q Where do you reside, Mr. Duffy?

A New Orleans, Louisiana.

Q What is your occupation?

A I am an attorney.

Q Attorney at law?

A That is correct.

Q How long have you been an attorney at law?

A Since June of 1958.

Q Were you in the year 1962 an Assistant United States Attorney at New Orleans?

A I was.

Q Who was your superior?

A At that time?

Q Yes.

A Mr. Lecoir (phonetically) just took office, prior to that it was Mr. Heperd Mainey (phonetically).

Q Are you still an Assistant United States District Attorney at New Orleans?

A No, I am not.

Q When did you cease to be?

A October of 1963, the 11th to be exact.

Q Now, specifically in the months of September and October of 1962, who was your immediate superior?

A Mr. Louis C. Lacour.

Q In month of September or October of 1962, did you become acquainted with a Mr. Grimsley?

A Actually I became acquainted with Mr. Grimsley in June of '62.

Q Is that A. Frank Grimsley?

A That is correct.

Q So you knew him in September and October of '62?

A That is correct, sir.

Q Now, did you know the States Attorney of the

Nineteenth Judicial District at Baton Rouge, a Mr. Pitcher?

A I did.

Q And when did you first become acquainted with him?

A Well, I have known of Mr. Pitcher from the time I was an Assistant United States Attorney. I first met Mr. Pitcher, I think it was in the latter part of September of '62.

Q Did you know an assistant of Mr. Pitcher by the name of Daniels?

A Yes, I knew Mr. Daniels.

Q When did you first become acquainted with him?

A Approximately the same time.

Q Now, did you, in the month, the latter part of the month of September, 1962, in accordance with your official duties, meet Mr. Partin at Baton Rouge, Louisiana?

A I did.

End Tk 27
Tk 28 fls.

Q Can you fix the time in September when you first met him?

A It was the latter part, I guess around the 30th or the first part of October, actually around that time.

Q And where were you, where did you meet him?

A It was in Baton Rouge.

Q In Baton Rouge?

A Yes, sir.

Q In what building was it in?

A It was in the Nineteenth Judicial District Courthouse.

Q In the courtroom?

A No. It was actually in Mr. Pitcher's office. His office is located there.

Q In the courthouse?

A That is correct.

Q Now, what time of night or day was this meeting?

A Well, as far as I can recall it was in the morning, early in the morning around two.

Q Do you mean shortly after midnight?

A It was around two or three o'clock, as I recall.

Q Now, you were present, Mr. Partin was present, who in addition were present?

A Mr. Grimsley and for a while Mr. Pitcher.

Q Was Mr. Daniels present?

A He also was present, yes.
Q And this meeting started to your recollection around two o'clock in the morning?
A Around that time. Two or three o'clock.
Q And how long did it continue? How many hours?
A As I recall approximately two to three hours.
Q Now during this discussion will you designate the person or persons who were doing the talking?
A Well, actually, as I recall, Mr. Partin and Mr. Grimsley and I did most of the talking.
Q Was there any recording or transcription of any conversation that was had at that time?
A As I recall there was.
Q There was?
A Yes.
Q And your recollection to the effect was it a recording or was there a court reporter or stenographer present?
A There was no stenographer present. I assume it was a recording of some type or form.
Q Do you know who was doing the recording?
A I believe it was Mr. Pitcher actually who had the custody of the machine.
Q Now at that meeting was the name James R. Hoffa discussed?

A At that particular meeting?

Q Yes, sir.

A As I recall I believe it was; Mr. Hoffa's name was discussed.

Q You are not acquainted with this case but I will ask you were the names of Allen Dorfman discussed?

A As I recall, no, sir.

Q Ewing King?

A As I recall, no, sir.

Q Nicholas Tweel?

A As I recall, no, sir.

Q Larry Campbell?

A No, sir.

Q Thomas Ewing Parks?

A No, sir. The names do not strike me as being discussed at that time.

Q I am not asking you what was said now, in reference to Mr. Hoffa, but I am asking you if this conversation started at two or after and lasted about three hours, what portion of the conversation was taken wherein the name of Mr. Hoffa was discussed?

A What portion of it?

Q Yes.

A It is very hard to say, Mr. Haggerty. I don't really recall exactly how it was divided as far as time was

concerned.

Q Would you say it was half?

A I would. It would be very hard to say that it was half. I didn't actually --

Q (Interposing) Your best recollection, I know you didn't have a stopwatch, Mr. Duffy, but your best recollection, would it be a third or a quarter of the time?

MR. NEAL: Your Honor, in the interest of time, we have gone over this time with Mr. Grimsley, with Mr. Daniels, are we going over these meetings again?

THE COURT: Overruled in the interest of time.

MR. HAGGERTY: Well, we learned something we didn't know before from this one witness.

BY MR. HAGGERTY:

Q Would you say it was a quarter of the time or a third of the time?

A It is as I said before, Mr. Haggerty, I wouldn't be able to say how much of the time we devoted to just discussing the individual Mr. Hoffa.

Q Now, as a matter of fact, I requested you Saturday an opportunity to talk and interview you, did I not?

A That is correct.

Q And you thought better of it?

A That is correct.

Q And at least you refused to allow me to interview

you?

A That is correct.

Q Were you told by any government to do that?

A No, sir.

Q Did you discuss it with any government agents?

A My talking with you?

Q Yes, whether or not you should talk to me?

A I discussed it briefly with Mr. Lacour.

Q And I understand at the present time you are no longer with the District Attorney's office?

A No, I'm not.

Q Now, did you get a copy of the recording that was made of that conference?

A I did not.

Q Did you get a transcript of that recording?

A I did not.

Q Now, what kind of a machine in your recollection recorded this conversation?

A I actually never did see the machine itself.

Q But you say that because of the turning on and off of levers. Is that it?

A More or less that is the reason I knew there was a recording specifically.

Q And you were familiar with the devices of that kind, were you not?

A Yes, I am familiar with tape recorders or recorders.

Q Now, following this conversation which you put on the 30th of September or possibly the first of October, 1962, did you return to New Orleans?

A We did.

Q Did you report to your superior?

A I don't really recall whether I reported to him at that time or just reported the fact that I had been up to Baton Rouge to see Mr. Partin.

Q Have you any knowledge of the whereabouts of the recording that was made of the conversation on either October 30th or September 1st, 1962?

A I do not.

Q Now, did you have a second or were you present when there was a second meeting in which Mr. Partin was present?

A I was.

Q And where was that meeting held?

A In Baton Rouge.

Q And where was it held?

A In Sergeant Pitcher's office.

End 28
29 fls

Q And in relation to time, when was it as compared to October or September 30th or October 1st?

A I would say approximately four or five days thereafter or a week thereafter.

Q And who was present at this conference?

A As I recall, I believe the same individuals that were present before at the conference.

Q You don't recall any of them being absent or anybody being added, is that right?

A The only one that I am not sure wasn't there would have been Sergeant Pitcher.

Q I see. Now, what time in the night or day did this conversation commence?

A As I recall, it was approximately the same time in the early--, early morning hours, I'd say around three or so.

Q And how long did that conference last?

A I would say about an hour or so.

Q And was that recorded, that conversation?

A As I recall at that time I really don't know.

Q You don't?

A No, Mr. Haggerty.

Q Now, following that conference was there a third conference wherein you were present and Mr. Partin was there?

A No, sir.

Q At the second conference was Mr. Hoffa's name

mentioned?

A At that time I don't really recall whether we did at any time discuss Mr. Hoffa at that time.

Q As a matter of fact, you were discussing, were you not, you were discussing getting Mr. Partin out of jail, wasn't that the discussion?

A The first or second time?

Q The second time.

A No, sir.

Q The first time.

A As far as I recall I don't ever recall ever discussing that with Mr. Partin at all.

Q Did you hear it discussed in either of these conferences?

A As I recall, I believe there was some, some discussion, not so much of his getting out of jail as the making of bail.

Q The making of bail to get out of jail.

A As I recall.

Q Isn't that right?

A Right.

Q Yes.

A But I don't remember--, I don't recall exactly what was discussed at the time.

Q Do you recall what individual discussed it with

Mr. Partin; was it Mr. Pitcher?

A I believe it was Mr. Pitcher.

Q Did Mr. Grimsley enter into the discussion in reference to the bail?

A No, he did not, I don't believe.

Q Now, was there a third meeting?

A To my--

Q (Interposing) Wherein there was a conversation with Mr. Partin?

A Not that I know of.

Q Did you have any conferences with Mr. Partin in New Orleans in your office or in the office of the District Attorney?

A No, sir.

Q Did you have conferences with Mr. Grimsley subsequent to these two meetings with Mr. Partin, Mr. Grimsley, Mr. Pitcher and Mr. Daniels?

A No.

Q Did you have knowledge that on the 8th day of October, 1962, from a motel, Holiday Inn--

MR. NEAL: (Interposing) Your Honor, this is not proper examination of one's own witness. What is this, some sort of discovery proceeding?

THE COURT: Sustain the objection to that.

BY MR. HAGGERTY:

Q Do you know anything about on October the 8th Mr. Partin and Mr. Daniels were in a motel and tapped a telephone call?

A No, I don't.

Q Do you have any knowledge of that?

A Not at all, sir.

Q Did you have any knowledge of the 18th of October?

MR. NEAL: Your Honor, this is just violating the objection that you just sustained.

MR. HAGGERTY: I don't think so.

BY MR. HAGGERTY:

Q Witness, did you receive any information before or after the 18th of October, 1962, that Mr. Partin had made telephone call which was recorded to Mr. Hoffa?

A As I recall, no, Mr. Haggerty, I don't remember receiving information.

Q Did you ever receive a copy, did you ever receive a copy of a telephone recording or recordings of the 8th or the 18th?

A I did not.

MR. NEAL: Just a moment, how at this point can this be relevant to the issues in this lawsuit?

THE COURT: Proceed.

MR. HAGGERTY: I think we have a full right of inquiry.

THE COURT: Proceed.

BY MR. HAGGERTY:

Q Did you ever hear played or read a transcript of telephone recordings on the 8th or the 18th that were made by Partin in the presence of Daniels?

A No, sir.

Q Have you a recollection now, was it in the first or second conference where bail was discussed about Mr. Partin?

A As I recall I believe it was the first.

Q Yes. Do you know how long after that discussion on September 30th or October 1st that bail was allowed for Mr. Partin?

A I really don't know, Mr. Haggerty.

Q Did you make any memoranda or notes after these two meetings?

A No, sir.

Q Did you make any written correspondence or any written messages to your superior, Mr. Lacour?

A No, sir.

Q Did you have any conference with Mr. Pitcher or anyone else at Baton Rouge, New Orleans, or elsewhere, that if the kidnapped children would be returned it would no longer make it an aggravated kidnapping charge, a federal offense, and that Partin was eligible for bond under a charge in the

state court?

MR. NEAL: Your Honor, how can this sort of examination be tolerated?

THE COURT: Sustained.

MR. NEAL: That charge is without any foundation.

THE COURT: Disregard--

MR. NEAL: (Interposing) Gone over that thing.

THE COURT: Disregard the question. Sustain the objection.

End 29

Tk 30 fol.

MR. HAGGERTY: May I have this marked for identification, please, sir, with an exhibit number?

THE CLERK: It will be No. 212, your Honor.

(The certified copy referred to above was marked for identification as Exhibit No. 212.)

MR. HAGGERTY: Now, will you take it to the witness?

BY MR. HAGGERTY:

Q I hand you which is a marked--do you care to get your glasses?

A All right, I don't have to really use them unless I read a long time.

Q All right. I hand you for identification which is marked--what exhibit number?

THE CLERK: No. 212.

BY MR. HAGGERTY:

Q Marked for identification as Exhibit No. 212, will you thumb through that and see if you are familiar with the contents of which these are copies? Have you examined them?

A Yes, I have.

MR. HOOKER: We would like to see it now, if your Honor please.

BY MR. HAGGERTY:

Q Are you familiar with any of them?

A I am familiar with the first document. Namely, certified copy of the indictment.

THE COURT: All right.

MR. HAGGERTY: They are examining it, your Honor.

MR. HOOKER: We object to this, if your Honor please. It is entirely a collateral matter about which the Witness Partin has been asked and answered. And we submit any further inquiry into it is inadmissible, irrelevant, immaterial.

MR. HAGGERTY: If your Honor please, I can't see stating this in the presence of the jury.

THE COURT: I will allow it to be marked for identification.

MR. HAGGERTY: I have to proceed with this at this time. I say it is not collateral. We are not bringing these in to try another case. We are bringing them in for another purpose.

THE COURT: Let me see it. Well, let's proceed. I am unable to determine at this time.

MR. HAGGERTY: I cannot proceed at this time. I am getting near the end of my examination of this witness and I cannot proceed until we have a ruling on it.

THE COURT: Well, it is about time for the mid-afternoon recess anyhow. Let's let the jury be in recess a moment and let me see what possible materiality of it is.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Just a moment, court is not in recess.

MARSHAL SERTEL: The court is in session.

THE COURT: All right, Mr. Haggerty, what do you determine to be the materiality of it?

MR. HAGGERTY: I have here a certification--

MR. BRANSTETTER: (Interposing) May it please the Court he might want the witness excluded.

MR. HAGGERTY: I would ask the witness be excluded.

THE COURT: All right, you may step down, sir.

(Thereupon,the witness was excluded from the courtroom and in his absence the following proceedings were had, to-wti:)

MR. SILETS: May the witness be admonished to not discuss this testimony?

THE COURT: Yes, sir. Just one moment, please. Do not discuss your testimony or allow anyone to discuss your testimony with you.

(Witness temporarily excused.)

MR. HAGGERTY: I have here, may it please the Court, a certified copy of the proceedings certified by the Clerk of the United States District Court for the Eastern

30 - 4 •

District of Louisiana. It includes an indictment returned against Partin in 29 counts. Twenty-six counts. It contains that the bond was set at $50,000.

THE COURT: Well, now, those papers are the ones which the witness referred to as not being familiar with, weren't they, Mr. Haggerty? He referred to being familiar with the indictment but not the remaining papers?

MR. HAGGERTY: Well, your Honor--

MR. HOOKER: (Interposing) That is what he said.

MR. HAGGERTY: Your Honor, it seems that I have the wrong papers from the one I had yesterday. I think some of my constituents must have switched it on me. So I will ask you--find here this is not what I was referring to at all. I ask for a recess until they try to find this, your Honor.

THE COURT: All right, let's be in recess for ten minutes.

(Thereupon, at 2:50 o'clock P.M. court was in recess.)

End Tk 30
Tk 31 fls.

MR. HAGGERTY: Your Honor, I am satisfied with Exhibit 212 for identification.

THE COURT: All right.

MR. HAGGERTY: I wonder if we could take up Mr. Bergan's matter now?

THE COURT: Well, I think that if the purpose of Mr. Bergan's testimony is in line with what was asked him in the absence of the jury I think that I will allow you to put it in.

MR. HAGGERTY: Very well, your Honor. I have the particular page. Has your Honor found the pages in the transcript?

THE COURT: Yes, 3712.

MR. NEAL: Your Honor state that you would allow them to put it in?

THE COURT: Yes, I think I will allow it to be put in.

MR. HAGGERTY: On page 4262. I am sorry, your Honor.

THE COURT: I was mistaken, I was mistaken in my reference.

MR. HAGGERTY: That is one reference.

THE COURT: What page do you say, sir?

MR. HAGGERTY: It starts at 4261 and then it goes 4262, is one reference, and then there is another at the top

of page 3715.

THE COURT: All right. Well, how do you wish to proceed now, to have Mr. Bergan return to the stand or could we not finish with the witness, Mr. Duffy? Have you finished with your examination of Mr. Duffy at this point?

MR. HAGGERTY: He asked about the privilege. I haven't that testimony in that record yet on Mr. Bergan.

Well, Duffy, we'll let go of Mr. Bergan so he may go on his way, reserve Mr. Duffy.

MR. NEAL: While the jury is out, without bringing the jury in and taking them out again, could we settle the Duffy matter?

THE COURT: Yes.

MR. NEAL: I haven't seen the new papers submitted, your Honor, that your Honor said --

MR. HAGGERTY: (Interposing) I said I would put them in for identification.

MR. NEAL: Oh, oh, I see. Well, now, your Honor, they have Mr. Pitcher out here also and Mr. Daniels. They have been here since Thursday. It appears to me that those people fall within the Court's statement this morning about impeaching witnesses with respect to voir dire.

I don't understand how they can go on with discovery deposition and attempt to take the stand dragging across this federal indictment that was brought out in the

direct examination of Mr. Partin and he admits it's pending. I don't understand how we can continue to go on with that kind of testimony. That has no apparent relevancy other than rehashing the fact that there is a federal indictment that's pending, Number 1, and Number 2, seeking to discover, seeking to discover by obviously leading questions what this witness might or might not know about something that they have no idea of what they are going after.

End 31
32 fls

MR. SILETS: Your Honor, in light of that could we have a voir dire examination of Mr. Pitcher so that we can establish to the Court's satisfaction?

THE COURT: Well, gentlemen, let me clear up one thing at a time.

MR. HAGGERTY: Mr. Bergan then Mr. Duffy then Mr. Pitcher.

THE COURT: As I understand your examination of Mr. Bergan is in line with what you requested in the absence of the jury, well, he has already testified about it whatever there was would appear--

MR. HAGGERTY: He has not testified before the jury, Your Honor. The jury was excused.

THE COURT: Yes, but it is a matter of public information what he said, isn't it? Isn't it public?

MR. HAGGERTY: The jury hasn't hear it. The jury hasn't hear it, Your Honor. He took his privilege--, he asked, said that there was a question of privilege right then and there. Well, he didn't claim any privilege.

THE COURT: He said there was a question of privilege. Well, he didn't claim any privilege; then he said he had some question about privilege and then he went right ahead and testified in open court about it. Whatever privilege he could have claimed appears to me he didn't claim. I mean I don't know how a person can say that he should not testify

about these matters but here is what I have to say about it and that is in fact what he has done here.

MR. HAGGERTY: Well, I would like to complete his testimony, Your Honor. It is just on that point but I want to clear it to the jury.

THE COURT: All right, I will permit you to do so. I just wonder if we should interrupt the testimony of Mr. Duffy to do that? Let's bring Mr. Duffy in and then bring Mr. Bergan back.

MR. HAGGERTY: I'm through with Mr. Duffy.

MR. NEAL: We have no cross examination.

MR. SILETS: I would like to examine Mr. Duffy.

THE COURT: All right, have Mr. Duffy return.

MR. NEAL: I understand now the examination, we have had this matter settled several times, this matter is direct examination, not cross examination?

MR. SILETS: I haven't put him on the stand, Your Honor. This man has testified. He is not mywitness. I filed a brief with Your Honor this morning to establish the fact that I am entitled to examine him. Now it is the government's onus if they have joined all these people together here and now they say you are all together in the same melting pot and you can only examine them once.

THE COURT: Well, let's proceed then.

(Thereupon, the witness Duffy returned to the

witness stand and the following proceedings were had,to-wit:)

THE COURT: All right, you may proceed. We want the jury.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Proceed.

MR. SILETS: Thank you.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Duffy, in your examination by Mr. Haggerty you had mentioned that there had been a discussion about a problem of making of bail to get Mr. Partin out of jail and that was discussed in your presence. Can you tell us more about that discussion, please?

A The only thing that I recall of the incident being was the discussion between Mr. Partin I believe and Mr. Pitcher.

Q And that related to his being incarcerated on the kidnapping?

A That is correct.

Q And do you know how long he had been so incarcertated at the time this discussion took place?

A No, I don't.

Q It was approximately five days that he was in jail on the kidnapping charge at that time, isn't that about

right?

A I really do not know the exact time.

Q Are you familiar with the unlawful flight to avoid prosecution, the statute of the United States Code?

A I am familiar with it by reference as you have just indicated.

Q Isn't it true that Mr. Partin was also charged with unlawful flight to avoid prosecution?

MR.REDDY: We object to that, may it please the Court, as to what he was charged with.

End 32 THE COURT: Sustain the objection.

Tk 33 fol.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q At this time was it considered in terms of the bail problem of getting Mr. Partin out of jail, was it also not considered in terms of getting him out of jail on the federal charge of unlawful flight to avoid prosecution?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Now, you say you saw Mr. Partin twice, the two meetings that you related?

A Correct.

Q Did you ever see him after the second meeting?

A No, I did not.

Q Did you ever speak to him again?

A No, I did not.

Q Now, you indicated that there had been a recording of the first interview. Did the subject matter of that recording, was that ever discussed between yourself and your superiors?

A I don't believe it was.

Q Have you ever discussed it with anyone?

A As far as I recall.

Q Sir?

A As far as I recall, no.

Q Now, did you ever receive -- you said that you were familiar with the -- what is that last document, Mr. Dale?

MR. DALE: 212.

BY MR. SILETS:

Q 212, which is marked for identification. You said that you were familiar with the first document, that is, the indictment returned against Mr. Partin, is that correct?

MR. HOOKER: We are objecting to this.

THE COURT: Overruled.

BY MR. SILETS:

Q Sir, are you familiar with the indictment returned against Mr. Partin?

A Yes, I am.

Q And did you personally participate in some manner in the case?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Have you or anyone in the office of the United States Attorney for whom you were employed ever received any instructions from Mr. Grimsley or from Washington, D. C., concerning the manner or method of conducting the case entitled United States versus Partin, Criminal Docket No. 1452 in the Eastern District of Louisiana?

A In what -- in what manner or mode?

Q Well, in any manner or mode?

A As I recall, Mr. Grimsley and I worked up the grand jury presentation together.

Q Well, following the presentation and the return of the indictment was there any instructions ever received by your office concerning that case?

A The only instructions that I had, of course, there was some preliminary motions filed at the time and we were supposed to prepare our positions to them and I wasn't able to because of the trial docket I had and Mr. Grimsley asked me if I couldn't -- to try to see about having the preliminary motions continued.

Q So at the request of Mr. Grimsley, the matter entitled United States versus Partin was continued?

A At my request it was continued.

Q Pursuant to the discussions you had with Mr. Grimsley?

A That is correct.

Q Now, is it your custom and practice to meet in conferences at two and three o'clock in the morning?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SILETS:

Q Now, during these conferences that you had -- by

the way, do you recall when the indictment was returned, which is in your hands, the date of the return of the indictment?

A Not the exact date.

Q Well, could you give us the approximate date?

A I believe it was some time in June.

Q Of 1962?

A That is correct.

Q Now, you indicated that you then had a conference or you were present during a conference when Mr. Partin had discussions with you and Mr. Grimsley and that was in the latter part of September or the first part of October, is that correct?

A That is correct.

Q Now, to your knowledge was Mr. Partin represented in this indictment by Mr. O. C. Brown?

A Yes, he was.

Q Was Mr. Brown present when --

MR. HOOKER: (Interposing) We object.

Q When you consulted with Mr. Partin?

MR. HOOKER: All of this, if your Honor please, is immaterial.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, this is certainly material and it certainly is relevant. This is a conference

had after the return of the indictment.

THE COURT: I will allow him to answer if Mr. Brown was present.

BY MR. SILETS:

Q Was Mr. Brown present?

A At the time we met, no, sir.

Q Did you advise Mr. Brown that you were going to consult with his client?

MR. HOOKER: Object to that.

THE COURT: Sustained.

MR. SILETS: Your Honor, again this is material and relevant to establish the course of conduct by the government people with respect to their relationship with Mr. Partin.

THE COURT: I believe that should be sustained.

BY MR. SILETS:

Q Now, you have practiced law in the State of Louisiana and you are admitted to practice in the State of Louisiana and you have indicated that Mr. Partin was incarcerated on a kidnapping charge?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Well, is it not a fact that at the time you spoke to Mr. Partin he was then and there being incarcerated on

kidnapping --

MR. HOOKER: (Interposing) Object to that.

MR. SILETS: Your Honor, he has already testified as that being a fact.

MR. HOOKER: Then I object on the further ground of being repetitious if he has already testified.

MR. SILETS: All right. I will move up.

THE MARSHAL: Let's have order.

BY MR. SILETS:

Q Now, kidnapping can be a dual offense, is that correct?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Is it not true, Mr. Duffy, that aggravated kidnapping in the State of Louisiana --

MR. NEAL: (Interposing) Now, your Honor --

THE COURT: (Interposing) Sustain the objection to that.

MR. SILETS: Your Honor --

THE COURT: (Interposing) That could only be a legal question. Please proceed.

MR. SILETS: It is more than a legal question, your Honor. I would like to establish through this witness the fact that aggravated kidnapping is a non-bailable offense,

that through the government's efforts the man was put out on bail.

THE COURT: This isn't the way to establish --

MR. BERKE: (Interposing) If your Honor please, we think any promises or any favors or any considerations shown Mr. Partin is material in this case and we would respectfully --

THE COURT: (Interposing) I sustained the objection to the question that was asked.

End 33
34 fls

MR. HOOKER: We ask that your Honor instruct the jury not to consider the statements of counsel.

THE COURT: Disregard the arguments of counsel. Let's proceed.

BY MR. SILETS:

Q Now, to your knowledge was Mr. Partin put out on bail on the kidnaping charge?

MR. HOOKER: We object to that.

THE COURT: Well, he can answer if he knows.

BY MR. SILETS:

Q Sir?

A I didn't have personal knowledge. I had heard he was out on bond.

Q Do you know the amount of the bond?

A No, I don't.

Q On the charge, the federal charge which you are familiar with and the indictment which you have now reviewed, he was placed on bond, was he not?

A Yes, he was.

Q And was there some problem about continuing the bond on the federal charge on or about the time you had the conversations with him in the beginning of October?

MR. HOOKER: We object to that, if your Honor please. Interminable inquiry into this matter that is bound to be collateral and has nothing to do with this case.

THE COURT: Overrule the objection.

THE WITNESS: Would you repeat the question?

BY MR. SILETS:

Q Would the reporter read the question back?

(Thereupon, the court reporter read back the question as follows:)

"Question: And was there some problem about continuing the bond on the federal charge on or about the time you had the conversations with him in the beginning of October?"

THE WITNESS: I believe he had to change those who acted as his surety before but that is the only knowledge I have of it that there was such a change.

BY MR. SILETS:

Q And that was some short time after you had this meeting at the end of September or the beginning of October?

A I believe so.

Q And that was also some time prior to the time that a phone conversation was had on October 8 by Mr. Partin?

A I am not familiar with any telephone conversation Mr. Partin might have made.

Q Now, subsequent to your interview of Mr. Partin at the beginning of October, had you ever had occasion to discuss the matters he related at that interview with any members of the Department of Justice?

Q Now, Mr. Duffy, when did you leave the employ of the government?

A October 11, 1963.

Q Now, subsequent to your leaving the employ of the government has anybody from the government consulted with you about your testimony here?

A No.

Q Prior to your leaving the government then, prior to October of 1963, did you discuss with your superior in the United States Attorney's Office any matters relating to Mr. Partin?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Well, let me limit it further. Did you discuss with any superior in your office matters relating to Mr. Partin's testimony or prospective testimony in this case?

MR. HOOKER: We object to that on the ground it is immaterial whether he talks with him about it or not.

THE COURT: Sustained.

BY MR. SILETS:

Q How many times have you had conferences at two o'clock in the morning when you were employed by the government?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. SILETS:

Q Have you had any occasion to see the tape recording of the conferences that you related on your direct examination?

THE COURT: We have been over that. He has answered that two or three times, Mr. Silets. Let's move along to other matters. If you have any matters that haven't been covered.

MR. SILETS: I have no further questions.

MR. HOCKER: No questions.

MR. SILETS: May we have the indictment introduced in evidence, your Honor?

THE COURT: It has been introduced for identification purposes.

MR. SILETS: I would like to offer it for evidence.

MR. HOOKER: We object to it.

THE COURT: At this time, I will just have to reserve that.

THE WITNESS: Am I excused?

THE COURT: All right, the witness may be excused, yes, sir.

THE WITNESS: Will I be able to leave, your Honor? I am from New Orleans and I have got pressing engagements.

THE COURT: You may be excused.

THE WITNESS: And I would like to also know whether I should speak to someone from the defense about payments--

THE COURT: (Interposing) This is a matter you may take up with the gentleman having a seat over there in the corner.

MR. REDDY: Mr. Bufalino.

MR. SILETS: I do believe, Mr. Duffy is under subpoena for another motion, your Honor, if I am not mistaken.

THE COURT: Well, if he is, remain available until this afternoon and we will see what the problems are in that respect.

THE WITNESS: Thank you, your Honor.

(Witness excused.)

MR. HAGGERTY: May I have Mr. Bergan?

THE COURT: All right.

RAYMOND W. BERGAN,

a witness called at the instance of the Defendant James R. Hoffa, having been previously duly sworn, was examined and testified further as follows:

FURTHER DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Mr. Bergan, your testimony was interrupted by voir dire. Has the Court instructed you?

A No, sir.

THE COURT: There is no instruction. The Court has accepted the proceeding.

BY MR. HAGGERTY:

Q Now, so it will be clarified, it has been testified to the pages that are in the transcript on two occasions by Partin.

MR. NEAL: May your Honor, now, your Honor, we just ask him to ask the question.

THE COURT: Sustained. Just ask the question, Mr. Haggerty, let's do not argue the case at this time.

BY MR. HAGGERTY:

Q At the time of your interview with Mr. Partin in Washington, did you advise him he had nothing to worry about on the 26-count indictment?

A Am I free to answer that, your Honor?

THE COURT: Well--

THE WITNESS: (Interposing) I have no objection to but I was--

THE COURT: (Interposing) Well, now, sir, at the time the question was raised you answered a while ago. I don't know why, whatever you have said is a matter of public record here. It can be that of public record again.

THE WITNESS: Very well, would you repeat the question, Mr. Haggerty? Sorry, I missed it.

End Tk 34
Tk 35 fls.

Q That has been testified to by Partin that at your Washington office and conference he had with you in reference to the 26 count indictmat you informed him he had nothing to worry about.

Did you so advise him?

A I did not.

MR. HAGGERTY: No further questions.

THE COURT: All right. Any further examination of the witness by any defendant? Any cross examination?

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Berger, you are with the firm of Edward Bennett Williams in Washington and some others?

A Yes, sir.

Q Mr. Williams represented Mr. Hoffa several times, I believe, hasn't he?

A In 19--

Q (Interposing) I don't want to know what, he just represented Mr. Hoffa?

A On one occasion before we became counsel for the International Brotherhood of Teamsters Mr. Williams--

MR. BRANSTETTER: (Interposing) May it please the Court, I want to object to counsel asking about whether or not he has represented Mr. Hoffa in various cases on behalf of the Defendant Campbell, we think it's inappropriate.

MR. NEAL: I didn't say in various cases, just that he represented, I don't want to know in what.

MR. BERKE: I object to that.

MR. HAGGERTY: I object to that, if Your Honor please.

THE COURT: All right. Sustain the objection.

BY MR. NEAL:

Q Who told you to confer with Mr. Partin?

A I don't know that anyone told me to confer with Mr. Partin, Mr. Neal, I am just nct sure how the appointment was arranged.

I met some two weeks prior to the time I met with Mr. Partin with his lawyer on the west coast, at which time we had a preliminary discussion and some two weeks after that I met with Mr. Partin.

I don't have any recollection or any record as to who arranged the meeting. I am quite sure it was just a result of our meeting on the west coast prior thereto.

Q Now, your firm, Mr. Williams represents the International Brotherhood of Teamsters.

A That is correct.

Q Giving legal advice and so forth.

A Yes, sir.

Q Do you know the charge against Mr. Partin that you were apparently conferring about--

A (Interposing) You are referring to the indictment, Mr. Neal?

Q Yes, that later resulted in the federal indictment.

A The indictment had been returned at the time I was conferring with Mr. Partin.

Q I suppose your firm gives advice to the general executive board on various matters.

A We are called upon to give advice to the board with respect to various matters, yes, sir.

Q Isn't it true, Mr. Bergan, to your knowledge that the general executive board of the International Brotherhood of Teamsters, your client, dismissed these charges?

MR. BERKE: If Your Honor please, now, just a minute. Now, when we tried to go into the charges in the indictment, if Your Honor please, and to show that that did not happen, they objected to it.

Now, I have no objection now. I want the Court to know that this matter has been opened up and we're going to go into those charges and see if those are the charges that were before the International Union.

Now, you ask it, you go ahead.

MR. NEAL: May it please the Court, I'd like to say that J. D. Albin, a witness put upon the stand by the defendant, has already testified that these were the charges.

THE COURT: Well, proceed.

MR. NEAL: That they were dismissed.

THE COURT: Proceed.

BY MR. NEAL:

Q Did you have any knowledge of that, Mr. Bergan?

A Do I have any knowledge of the fact that--

MR. BERKE: (Interposing) I want the Court to know this matter is opened up and we don't want to be foreclosed later on, if Your Honor please, by the government.

THE COURT: The Court is making no ruling now on anything in the future.

MR. BERKE: Well, if Your Honor please, Your Honor did cut us off.

THE COURT: Well.

MR. BERKE: When Mr. Albin testified on the matter.

THE COURT: Now, Mr.Berke, there is not a thing in the world to argue about here. If you have an objection to the question state your objection, if you don't let's don't argue about the matter further.

MR. BERKE: If Your Honor please, I don't want to object to it. I say that under the rule that that matter becomes open if the government themselves do that, then it is an open question. I don't have to object to it.

MR. NEAL: Your Honor, they have been dragging this federal indictment around and back by witnesses, just dragging it back and forth.

THE COURT: All right. Now, gentlemen, the Court will hear you gentlemen argue all night tonight but we are not going to take up the time of this jury on this sort of argument at this time. I will stay here with you all night to hear you argue if you want to argue at that time.

MR. NEAL: Well, I was just asking my question. I haven't heard a ruling, if the Court ruled one way or the other I couldn't hear it.

THE COURT: Well, sustain the objection, let's proceed.

MR. BERKE: I didn't object, if Your Honor please. If he wants to open it I say under that it becomes an open question.

MR. NEAL: I don't know what Mr. Berke has been doing if he hasn't been objecting.

MR. BERKE: I didn't object, if Your Honor please.

THE COURT: All right. If you have any further questions, ask the witness, if you have no further questions, we will excuse this witness.

BY MR. NEAL:

Q Mr. Bergan, you talked to Mr. Partin about these charges, I assume?

A I talked to Mr. Partin about the indictment, Mr. Neal.

Q About the indictment?

A I have no recollection of ever having talked to Mr. Partin about charges within the International Union.

Q I see. Do you know, do you know whether or not Mr. Partin inferred that you didn't think the charges were too much or too serious or the indictment was too serious?

A Are you talking about the indictment now as opposed to charges?

Q Yes.

A I have no way of knowing what Mr. Partin inferred from what I said.

Q It's possible from what you said that he came away thinking that in your legal opinion the charges could be beaten?

MR.SCHIFFER: Object to the form of the question, Your Honor, it calls for a whole hypothesis.

THE COURT: Yes, I believe I will sustain it. All right. Anything further?

EXAMINATION

BY MR. SILETS:

Q Mr. Bergan, have you ever advised any client charged with 26 counts in an indictment and facing 70 years or 78 years--

MR. HOOKER: We object.

Q Not to consider the charges as serious?

THE COURT: Sustain the objection.

MR. SILETS: All right.

THE COURT: All right. If there is nothing further this gentleman may be excused.

THE WITNESS: Thank you, sir.

(Witness excused.)

THE COURT: Call your next witness.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, nothing but the truth, so help you God?

MR. LACOUR: I do, sir.

MR. DALE: Have a seat.

LEWIS C. LACOUR,

a witness called at the instance of the Defendant Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name in full, please?

A Lewis C.Lacour.

Q Where do you reside, Mr. Lacour?

A New Orleans, Louisiana.

Q And your profession is what?

A United States Attorney for the Eastern District of Louisiana.

Q And you are an attorney at law?

A Yes, sir.

Q Now, Mr. Lacour, were you United States District Attorney at New Orleans in the latter part of the year 1962?

A I became United States Attorney on June 9th, 1962.

Q And you were that district attorney in the months of September and October in 1962?

A Yes.

Q Do you know a man by the name of Mr. Grimsley?

A Yes, sir, I know him.

Q And Mr. Duffy was one of your assistant United States Attorneys?

A Yes, sir.

Q Do you know a man by the name of--, a man by the name of Partin?

A No, sir, I do not know Mr. Partin, I know of him, I know of but I do not know him.

Q Did you ever meet him?

A No, sir.

Q Do you know a man by the name of Mr. Daniels?

A Yes, sir, I met him today.

Q Met him today for the first time?

A Correct, sir.

Q Do you know Mr. Pitcher?

A Yes, sir, I met him today for the first time.

Q Now, did you receive any information from any

source pertaining to Mr. Partin in the last part of September or early October of 1962?

MR. NEAL: Your Honor, we are going to object to that question.

THE COURT: Yes, I can't see the relevancy or materiality. Sustain the objection.

BY MR. HAGGERTY:

Q Were you requested by anyone to send an assistant district attorney to Baton Rouge, Louisiana?

MR. HOOKER: We object to that.

MR. HAGGERTY: That is certainly competent.

THE COURT: Overruled.

A No, sir, a direct request was never made of me. To the best of my recollection my assistant, Peter Duffy, was contacted by someone in Baton Rouge for a meeting with Partin, it was made known to me but beyond that I couldn't say who contacted him exactly, I honestly just don't know.

Q Did you ever discuss the matter with Mr. Grimsley?

MR. HOOKER: Object to that.

THE COURT: Sustained.

MR. HAGGERTY: Your Honor, I think it's perfectly competent if Mr. Grimsley had information that he discussed with him in his official capacity. I didn't ask him what he discussed.

End 35
36 fol.

THE COURT: All right. You may ask him if he had

a discussion with Mr. Grimsley.

A Have I spoken to Mr. --

BY MR. HAGGERTY:

Q About the Partin matter?

A Yes, I have spoken to Mr. Grimsley about it.

Q On how many occasions?

A Sir, I don't know. I don't know.

Q More than one?

A Yes, more than one.

Q Did you ever speak to Mr. Duffy about the Partin matter?

A I take it you are referring to the Partin matter as the case that is pending in my district?

Q And the case that is pending in your district and the matter pending in state court at Baton Rouge?

A I probably did. Mr. Duffy had that docket and I certainly tried to know something about the cases in my district. Yes, I would have to say yes, I have talked about the Partin case to Mr. Duffy.

Q Now, did you have any correspondence with Mr. Duffy in reference to the case?

A Correspondence?

Q Yes, correspondence, inter-office memos? Or notations or advice given to you in writing?

A No, sir.

Q Or on a recording?

A No, sir.

Q Did you have any correspondence with Mr. Grimsley about the Partin case that was pending in your district?

A No, sir, I did not. I -- to my knowledge I did not. I personally did not, no, sir.

Q Did your office have to your knowledge?

MR. HOOKER: We object to that if your Honor please.

THE COURT: Sustain the objection.

MR. HAGGERTY: Your Honor, it is certainly competent if there was written correspondence in reference to the Partin matter from his viewpoint and his viewpoint, as United States District Attorney, it is certainly competent for him to testify just as much as if he had in his office or if he had it personally if he knows.

THE COURT: I believe the objection to the question as asked should be sustained.

BY MR. HAGGERTY:

Q Now, Mr. Lacour, did you ever receive any recordings of a conversation between Mr. Partin and Mr. Hoffa?

A No, sir.

Q Did you ever hear played any recordings?

A No, sir.

Q Did you ever read a transcript pertaining to

those recordings?

A No, sir.

MR. NEAL: Your Honor, how can that possibly be relevant? What if he said he did, what would that lead to?

THE COURT: I can't see the materiality of it myself, but proceed.

BY MR. HAGGERTY:

Q Have you the overall supervision and control of the 26-count indictment? Pending against Mr. Partin in the District Court at New Orleans?

A What do you mean by the overall control, Mr. Haggerty?

Q Well, you are the United States District Attorney, are you not?

A Yes, sir.

Q And I don't suppose that you are handling it personally, are you?

A No, sir.

Q One of your assistants is handling it?

A Yes, sir.

Q But you have the overall supervision and control of it, have you not?

A Yes, sir. Of all cases in my district, but I must qualify that that there are many cases in my district where we seek the assistance of the United States Justice

Department and this was one.

Q This was one?

A Yes, sir.

Q And was Mr. Grimsley representing the Justice Department?

A Yes, sir.

Q And any other Assistant Attorney Generals?

A This case comes under the general supervision of the Criminal Division of the Justice Department. Mr. Miller's division.

Q Mr. Herbert Miller?

A Yes, sir.

Q Did you confer with Mr. Miller about this case?

A No, sir.

Q Did you confer with Mr. Urdahl about this case in Washington?

A I don't know Mr. Urdahl.

THE COURT: All right.

MR. SILETS: Cross examination, your Honor.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Duffy has left the employ of the Department of Justice, isn't that right, sir?

A Yes, sir.

Q And since he is no longer employed in your office,

which of your assistants is representing your office with respect to the case of United States versus Partin?

A Lewis R. Lucas (spelling) L-u-c-a-s.

Q Now exactly what is the relationship between your office and Mr. Grimsley with respect to the United States versus Partin?

A MR. HOOKER: We object to that.

MR. SILETS: Your Honor, he has already testified that Grimsley represented the Department of Justice in that case.

THE COURT: Overruled. Proceed.

THE WITNESS: What is the relationship?

BY MR. SILETS:

Q Yes, what is his participation?

A This case after the indictment was brought, the defense or counsel for Mr. Partin filed a number of motions some of which involved very detailed and complicated legal matters and as is usually our policy in those cases we sought the assistance of the Justice Department and it is my understanding that the Justice Department assigned this particular case to Mr. Grimsley.

Q Isn't it true that Mr. Grimsley helped present the case to the grand jury?

A I believe he did. This was --

Q (Interposing) In this case, so he was in this

case from the outset?

A Well, I don't know this because this presentation simply by my looking at the file was begun, this grand jury presentation was begun before I became United States Attorney. I can only guess that Mr. Grimsley was with it.

Q Well, Mr. Duffy who preceded you here said that Mr. Grimsley had assisted in the presentation.

A I am sure he is telling you the truth.

Q I suppose then since he participated in the presentation to the grand jury and participated in the answering of the motions he would also participate in the trial of the case?

A I don't know that, sir. Very often we will have the assistance of the United States Department of Justice; when it does come to trial we will often try it out of our own office.

Q Now, would you say that the primary responsibility, though, is, it is in your name, you being the United States Attorney for that district, that the primary responsibility in the sense of actual participation and work in the case is that of Mr. Grimsley answering motions and trying matters and so forth?

A No, sir, I wouldn't say that.

MR. HOOKER: If your Honor please, we object to all this.

THE COURT: Overrule the objection.

BY MR. SILETS:

Q Sir?

A I said, no, I wouldn't say that. I said that --

Q (Interposing) But he would have the major voice in the prosecution of the case?

A As a representative of the Justice Department, yes.

Q Now you indicated that you personally had no correspondence with Mr. Grimsley, who if anyone in your office did have such correspondence with him concerning United States versus Partin?

MR. HOOKER: We object to that. Immaterial.

THE COURT: Well, if he knows.

THE WITNESS: I know of some correspondence by Mr. Duffy that went out with Mr. Duffy's signature.

BY MR. SILETS:

Q And that related to the proceeding itself?

A Yes, sir.

Q Now, has that case been tried and prosecuted by your office?

A No, sir, it has not.

Q It is still pending?

A Still an open case pending in my district.

Q And the indictment was returned in June 1962, that

is about 20 months ago?

A Yes, sir.

MR. SILETS: May I have a moment, your Honor, to look at my notes? I have nothing further, if your Honor please.

THE COURT: All right.

MR. BRANSTETTER: May I ask just one question from here, your Honor?

THE COURT: All right.

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Lacour, that particular case has been continued indefinitely, has it not?

MR. HOOKER: We object to that.

THE COURT: Well, he can answer.

THE WITNESS: No, sir, it is not continued indefinitely.

BY MR. BRANSTETTER:

Q I am asking does your record show that the case at the request of the government has "been continued indefinitely"?

A I couldn't answer that. I am not sure, sir.

THE COURT: Anything further? Any cross examination?

CROSS EXAMINATION

BY MR. NEAL:

Q Mr. Lacour, is that case the oldest criminal case in your office?

A No, sir, it is not.

Q There are others older?

A Yes, sir.

Q Never been tried?

A Correct, sir.

Q These continuances motions ever been at the insistence of Mr. Partin's counsel?

A I beg your pardon, I didn't understand you.

Q These continuance motions of these you talk about have they been at the insistence of Mr. Partin's counsel. Is that correct?

A No, sir. Two of the continuances in the case were at the request of Mr. Partin's counsel. Four of them were at our request.

Q Some of those requests in your case at the press of other business, Mr. Duffy having something else to do and couldn't get to it?

A That's correct, sir. As a matter of fact, the last time we sought a continuance we had a visiting judge, Judge Bowen from Seattle, and which added another judge to our docket and Mr. Duffy at that time who had charge of this

case, had set for trial between the dates of November 6th and December 10, 24 criminal cases set for before Judge Bowen in that period of time.

Q For him to try himself?

A That was his docket.

End 36
36a fls

Q And he is the man also responsible for the Partin case?

A Yes, sir.

THE COURT: All right.

MR. SCHIFFER: One question, Your Honor.

CROSS EXAMINATION

BY MR. SCHIFFER:

Q Mr. Lacour, throwing your memory back to 1962, when was the last time this case was continued at the inception or at the insistence of the government?

A I believe it was in the early part of December, the exact date I don't know.

Q 1962?

A Yes, sir. That's correct.

Q And the last session you had in open court, the government took the case off the active calendar, did it not?

A No, sir. We don't have an active calendar. As long as each case is open indictment in our district it is prosecutable case.

Q And in over a year, you have not restored this case to the calendar for trial?

A The case is pending on motions, that is the status of the case at this time.

Q And the last continuance was at the insistence of the government. Is that right?

A Yes, sir.

Q And at any rate you can tell us that in over a year the government has not moved for a trial in the case.

A That's correct, sir.

MR. SCHIFFER: Thank you.

THE COURT: Anything further? If not, you may be excused.

THE WITNESS: Thank you.

MR. SILETS: May I ask one question, Your Honor? Just one question?

THE COURT: All right.

RECROSS EXAMINATION

BY MR. SILETS:

Q Was it on the motion of the government that the case be re-assigned?

A I don't understand that.

Q Well, my question is, did the government move that the case be reassigned to Judge--, from Judge West to this other judge or new judge coming in?

A If that is a fact I'm not aware of it.

MR. SILETS: All right, thank you, sir.

THE COURT: All right. You may be excused.

THE WITNESS: Thank you.

MR. SILETS: That is all.

(Witness excused.)

End 36 A
Tk 37 fol.

MR. DALE: Raise your right hand, please, sir. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. PITCHER: I do, sir.

MR. DALE: Have a seat.

SERGEANT PITCHER,

a witness called at the instance of the Defendant Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HAGGERTY:

Q Your name in full, please?

A Sergeant Pitcher (spelling) P-i-t-c-h-e-r.

Q And your occupation?

A I am the District Attorney of the Nineteenth Judicial District of Louisiana.

Q And where do you reside?

A Baton Rouge, sir.

Q And you are an attorney at law, of course?

A Yes, sir.

Q Mr. Pitcher, you are here under subpoena?

A I am.

Q And a subpoena duces tecum?

A Yes, sir.

Q Did you bring a portion of those records with you?

A I brought the records, Mr. Haggerty, that I thought the subpoena called for, yes, sir.

Q Now, may we see those records?

MR. NEAL: Your Honor, this is not the place for that sort of--

THE COURT: (Interposing) This is not.

MR. HAGGERTY: Now, here is a subpoena duces tecum. What other facility have we got if we can't bring them right in the court and then have an opportunity to examine them? What other remedies are open for us? There are none.

THE COURT: Well, sir, we are not engaged here in just a discovery procedure.

Ladies and gentlemen of the jury, step out a moment until the Court can pass on it.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. HAGGERTY: Now, this is a very serious problem to us. When we subpoena in records we don't receive any cooperation. I am not saying just from Mr. Pitcher, but they have their own chores, they have their own work, they don't want to be bothered with this, but we have a right to issue and take the remedies that are forwarded to us.

Now, if your Honor doesn't want to take the time

I'd make this suggestion that have Mr. Pitcher give them to us tonight and he could be there and we can examine them and that would end the matter, otherwise we are certainly entitled to our subpoena duces tecum, to have the records that we subpoena and we should have an opportunity to see them, but under this system here it is impossible for us to see them.

Now, I would suggest to the Court to save the Court's time and the witness being willing, or under the Court's order, that you give him an opportunity to let us see these records so we know where we are going. We will save a lot of time, possibly that we don't want of them, but the thing about it is we should have an opportunity to examine them.

THE WITNESS: Your Honor, might I--

MR. HAGGERTY: (Interposing) I might also say as to Mr. Lacour, his was a subpoena duces tecum, I would like him called back for the same purpose, I would like to see his records, too.

THE WITNESS: Judge Wilson, could I be heard before you rule, sir?

THE COURT: All right.

THE WITNESS: This is a subpoena duces tecum, as I understood it, called for any transcripts, electronically recorded conversations or anything else that mentioned the

name of Mr. Hoffa.

I do not have in my possession, Mr. Haggerty, anything that has any relevancy whatsoever to this trial or the trial in Nashville, Tennessee, pertaining to Mr. Jimmy Hoffa.

I have a recording of the first meeting of the Witness Edward G. Partin with the government officials. That is the only thing that I have that could possibly have any relevancy. It was not--it does not deal with this trial or with the Nashville trial. That conversation had nothing to do with the Nashville trial or this trial.

MR. HAGGERTY: Well, now, your Honor, I don't think that the witness should be allowed to fix relevancy.

THE COURT: Well, I expect the best way to handle this is to have him submit it to the Court for inspection in camera.

MR. NEAL: Talking about relevancy, Mr. Haggerty doesn't have the right to call on officials of the State of Louisiana to bring all records and all recordings that might mention the name of Hoffa. I have never heard of a proceeding like this in my life. They have drug people up.

MR. HAGGERTY: I--

MR. NEAL: (Interposing) Mr. Haggerty, you preached to me for days about courtesy. May I proceed?

MR. HAGGERTY: May I be permitted to apologize

to you, Mr. Neal?

THE COURT: Just a moment.

MR. NEAL: Yes, sir. Now, they have dragged these witnesses across here for days. At this point this is a discovery procedure, No. 1, and, No. 2, an effort to bring that federal indictment back in again and again and again. I just think that the Court should protect these witnesses here and protect the government and protect this trial.

MR. HAGGERTY: And protect the defendants, who are on trial on a serious charge. I say if Mr. Neal, if there is any other remedy open to us, none whatsoever, we didn't know of this until Partin took the stand, we didn't know of these things until then.

Now, I say to your Honor we are doing what is reasonable and fair, fair to ourselves and fair to the witness and fair to the government. I say then your Honor should inspect these matters in camera, I think that is what-

MR. SILETS: (Interposing) I object to that, your Honor. Let's get this understood. These are separate lawsuits and the sooner we have that understood, he doesn't represent my client and I don't represent his. I have a perfect right, no matter what the audience thinks, I have a perfect right to enter an objection. Now, I address the Court.

This matter is certainly a most unusual matter.

Mr. Neal says he has never heard of such a thing. I have never heard of this either, a situation where a state officer who has to be brought from the State of Louisiana, refuses to cooperate to see that justice is done.

Now, your Honor, I say this, that here is a situation where a state officer has obtained information pertaining to a leading witness in a federal case, that as a result of that information the witness becomes a witness for the Federal Government. Now--

THE COURT: (Interposing) Mr. Silets, just a moment. How is the Court going to ever pass upon materiality of anything that this witness has unless the Court sees it.

MR. SILETS: Well, your Honor, I suggest that is perfectly true but it doesn't mean it has to be an in camera inspection. We have had about 15 voir dire examinations of defense witnesses. Let us have the same here now, I mean what is there about this man that withdraws him from the ambit of what the government has been asking up until now?

All through this case I have listened to Partin and dozens of other people make the decision in their own mind what is relevant and what is not relevant. That is for the Court, not for this man, not for Partin. We ought to have a hearing to ascertain what was said and when it was said and who was present.

Now, the fact that somebody has alleged something

here has nothing to do with it. He can't make that decision. That decision has to be up to the Court and the Court cannot withdraw it from our view because we have a right to argue and dispute with the Court if the Court makes a decision which we feel is wrong and cite to the Court authorities.

Now, I urge this very respectfully, I made this motion time and time again. Now, I don't care if we have this in chambers or we have it here with the courtroom cleared, but somehow we have to once and for all ascertain what happened in these matters, what was said so that we know once and for all when these people say that it isn't relevant and doesn't pertain to this case whether they are making the correct judgment, it's up to the Court to determine that.

End Tk 37
37A fls.

THE COURT: Well, the Court has passed upon that and documents have been submitted to the Court, the Court has examined the documents and the Court has determined that they were not relevant and the Court has sealed the documents. The documents are sealed documents.

If you think the Court is in error, the Court of Appeals will have an opportunity to pass upon that. Likewise this witness, if the documents, or whatever it is, will be submitted to the Court and the Court will examine them, if they have any relevancy the Court will certainly make them available. If they have no relevancy, I see no reason why in the world they should clutter up the record in this case with further irrelevant documents.

MR. SCHIFFER: Insofar as the Defendant Parks is concerned, your Honor, may I say this, that it's all right for the Court and the prosecution to maintain about records that the Court of Appeals can look at something at their own leisure at a future date.

I should like to point out that justice is not merely to the quick nor to the people who have the money.

Now, let's be very realistic about it. I suggest, your Honor, the government spends millions of dollars on the prosecution, as they have done here, and nobody in the whole government can tell them to toe the mark and they can't spend any money but the defendants here, and this is the place for

them to achieve justice before a jury at the least possible cost, nobody in this table here can match the government's resources.

They use our tax money to try and frame --

THE COURT: (Interposing) Mr. Schiffer, what does that have to do --

MR. SCHIFFER: (Interposing) What it has to do is this, your Honor, that an element of justice is that justice should be done and should at least seem like justice at the time it is done.

THE COURT: In other words, it is your contention in order to achieve your concept of justice that the Court should disregard the law?

MR. SCHIFFER: Not at all. I say the law favors us. On the other hand, your Honor --

THE COURT: (Interposing) Does the law favor you in admitting immaterial and irrelevant matters into the record?

MR. SCHIFFER: Here is what we have been up against throughout the whole trial, your Honor, it's the only way I know logically I can answer your query.

Number 1, we have alleged that the entire government here, what is assembled here representing the government, has designed a network and a fabric of achieving a frame-up against certain individuals.

THE COURT: All right. We'll do this, Mr. Schiffer. Let's proceed. The Court will inspect these records and then pass upon whether or not he should be required to produce them. I know of no other way in the world the Court can pass upon this question.

MR. HAGGERTY: We want a fair way to do it, your Honor, either in chambers or clear the courtroom, have an inspection in the presence of the defendants where the defendants would have a right to make a proper objection.

THE COURT: All right. After the Court has inspected what you are referring to, the Court will make a determination whether that should be the procedure to follow or not.

MR. NEAL: Your Honor, I think, of course, the Court has got to determine the relevancy of this but -- and I know I have no idea what Mr. Pitcher has, no idea at all -- I think the only time I have talked to him was a couple of minutes this morning in my life.

MR. BRANSTETTER: May it please the Court --

MR. NEAL: (Interposing) First time I ever met him, but, of course, the Court owes some deference to the State of Louisiana as to any matters that might be within the ambit of the law enforcement agencies of the State of Louisiana and certainly the Court should determine whether there is anything relevant here or not before its own eyes

and then turn back to Mr. Pitcher whatever is purely a matter for --

THE COURT: (Interposing) Gentlemen, I have made my ruling. Now again, if you want to argue this after the jury has been excused, I will listen to you argue.

MR. SILETS: I just want to make this inquiry, your Honor. I have not heard Mr. Pitcher claim any privilege or secrecy by virtue of the statute of the State of Louisiana and even if he had I don't see how it could prevail in this federal court in Tennessee.

THE COURT: All right.

MR. SILETS: It is for that precise reason that this man is being called by the Defendant Hoffa as a witness and I can't understand under what theory of the law whatever he has brought becomes secret. It's not, I don't suppose he has brought grand jury minutes, I don't suppose he has brought state secrets.

I can inquire of the government what basis, what conceivable basis would there be for suppressing so that the Court would examine in camera what he has brought, I just don't know of any theory under the law.

THE WITNESS: Judge, may I answer that?

MR. BRANSTETTER: May it please the Court, I think in order that all defendants may be appropriately protected on behalf of the Defendant Campbell I want to

object to the total procedure.

The Court will recall when this matter was first raised by the government attorneys, I don't know whether it was raised at a particular point to try to stop something or what the purpose was, but I objected to any type of hearing outside of this courtroom in the presence of all spectators and I stated at that time, may it please the Court, that no witness had a right to determine what was relevant or irrelevant and that counsel representing defendants had a perfect right under our historic and judicial procedure to ask any question and have it objected to and sustained in open court.

I make the same statement at this time and I want the record very clear on it.

End 37a
38 fls

MR. BROWN: Exception as to all defendants.

MR. NEAL: Your Honor, may I refer the Court to the Bowman Dairy case, the leading case on Rule 17 (c) subpoenaeing of documents like this. It is very clear as to what can and cannot be subpoenaed.

MR. SILETS: He knows that Bowman case related to a case in my district, and related to a pre-trial motion. Had nothing to do with motion issued in the trial of the case and during the trial of the case.

THE COURT: All right. Submit the matters to the Court you brought for examination.

MR. BRANSTETTER: May I state my objection? I'm objecting on the basis of the Sixth Amendment to the Constitution of the United States permits compulsory process to obtain witnesses on behalf of any defendant and any papers that they may have that are relevant and produced and counsel has a right to look at them to determine whether he wants to submit them.

MR. HAGGERTY: Your Honor's ruling makes it impossible for us to proceed because we can't proceed without inspection or opportunity to inspect these exhibits.

THE COURT: All right. Is this all?

THE WITNESS: That is what the government has already introduced I understand.

MR. BRANSTETTER: I can't hear him.

MR. SILETS: Can't hear a word.

THE WITNESS: Sorry. I'm suffering from a little larangitis. I say that the other two tapes had relevance or mentioned Mr. Hoffa, the telephone conversation, you requested I understand have already been received in evidence. Sealed envelope.

THE COURT: The Court will just have to consider this this evening. Then we will take it up tomorrow. You can remain available until tomorrow morning.

MR. BRANSTETTER: May we have the same ruling as to Mr. Lacour? All right, I withdraw that request, Your Honor.

THE COURT: All right.

MR. NEAL: Your Honor, just for the benefit of the Court I don't want to argue this but the subpoena power to produce documents is all under section 17 C and the Bowman Dairy case whether subpoena before trial, during trial, or any time.

THE COURT: The Court is not aware of any subpoena that has been issued. Motion for the Court to quash subpoena was filed by the government and the Court quashed the subpoena, sustained the motion to quash. Apparently some further subpoena has been issued. But anything in connection with the further subpoena has not been presented to the Court.

MR. NEAL: I want to point out the Bowman Dairy case, it says in the Bowman Dairy case under Rule 17C cannot be used for discovery proceeding. If the Court will read this

case and the case following the Bowman Dairy case that is what the defense has been doing with all these people.

MR. SCHIFFER: Your Honor, as far as the Defendant Parks is concerned I should like the government to be put on notice. Maybe he doesn't understand me. I have only been saying this for three weeks, when I feel there is a witness anywhere in the United States or anywhere in the world who has got evidence in this case here I am going to send him a subpoena whether Mr. Neal likes it or doesn't like it. He can cite ten Bowman Dairy cases, if anybody has information for the defense I'm going to get it.

THE COURT: All right.

MR. HAGGERTY: Same reference to the subpoena, Your Honor, the subpoena was quashed and was re-issued. It was cut down.

THE COURT: All right, sir. Is there anything further at this time?

MR. BRANSTETTER: I would like to ask the witness a question not related to the matter that has just been discussed.

THE COURT: All right. Will you prefer to do that now or wait until the Court can pass on it and then examine the witness further?

MR. BRANSTETTER: I think that might be proper.

THE WITNESS: Judge, if I might askthe indulgence

of the Court, my administrative assistant, Mr. Daniels, has been here for three weeks. The Court was kind enough to excuse me last week. I was subpoenaed forthwith. Mr. Daniels can testify to anything that I can and I'm available this afternoon for any other questions that counsel may have. I have brought the records that I was requested to bring. Mr. Daniels is fully familiar with it and can testify about those records just as well as I could. I would like to be excused after counsel has cross examined this afternoon.

MR. BERKE: We will be glad to meet with this witness and accommodate him immediately after court if he will allow himself to be interviewed by us and answer the questions. We possibly can excuse him and let him go back down, but the witness has not done so and of course that is the reason for having to put him on the witness stand.

THE WITNESS: I don't know your name sir, but Mr. Gillis came to my office in Baton Rouge and I didn't refuse to answer any questions asked by Mr. Gillis.

MR. BERKE: You didn't answer these questions, sir.

THE WITNESS: Which questions are you referring to?

MR. BERKE: That we are asking you here.

MR. NEAL: I guess he wasn't asked by Mr. Gillis down there.

THE WITNESS: I haven't been asked any questions.

MR. NEAL: May I ask the witness a question?

EXAMINATION

BY MR. NEAL:

Q Has anyone purporting to represent these people examined you, asked you questions?

A All Mr. Gillis did was served me with a subpoena in Baton Rouge.

Q Did he ask you any questions?

A He asked me what I knew about the case.

Q What did you tell him?

A Told him what I knew about the case had already been ruled inadmissible.

Q Did you refuse to answer any questions?

A No, sir.

MR. SCHIFFER: Certainly the witness cannot be his own judge as to what might be or might not be admissible.

THE COURT: I just don't know how to otherwise proceed than what we are suggesting.

End 38

38A fol.

MR. BERKE: Now, if your Honor please, this evening right after court we'll try to accommodate this witness and if he will bring his tape with him or give us the transcription or whatever it is we will be glad to excuse him.

THE WITNESS: I will be here in the morning, Judge.

THE COURT: All right.

THE WITNESS: Is that all, sir?

THE COURT: That is all. Thank you, sir.

MR. BRANSTETTER: Sorry, did the witness say that he would be available in the morning?

THE COURT: Yes, sir.

MR. BRANSTETTER: Thank you.

THE COURT: All right, let's call the next witness. Call the jury back.

MR. BERKE: Call Mr. Vernon Hegarty.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom, and the following proceedings were had, to-wit:)

THE CLERK: Exhibit No. 213, your Honor.

(The certified copy of docket sheets was marked for identification as Exhibit No. 213.)

MR. SILETS: May it please the Court, I have had marked as Exhibit No. 213 and certified, exemplified copy

of the docket sheets and entries and excerpts from the entries of the case entitled the United States vs. Edward Grady Partin, Criminal No. 1452, Eastern District of Louisiana. And I offer that in evidence under the provisions of Section 1733 of Title 28 in the United States Code.

MR. HOOKER: Object to it.

MR. NEAL: It is immaterial.

THE COURT: Well, we will allow it to be filed for identification and then we will take up the matter of objections later.

MR. SILETS: I would like part of this to be read to the jury, your Honor, this is certainly material. According to the theory of our case.

THE COURT: Well, I have just asked the jury to come back in. I do not wish to ask them to go out again.

MR. SILETS: Does the Court feel--

THE COURT: (Interposing) May I see the document?

MR. SILETS: Certainly, your Honor, I refer to the United States Code on this proposition, your Honor.

THE COURT: The court will need an opportunity to study the exhibit. Then consider the objection to it. Then you will be permitted to read whatever is admissible by law. Can you call the next witness?

MR. BERKE: I already have, your Honor.

MR. SILETS: Your Honor, if the Court has any

desire for argument on the relevancy and the materiality of the proposition of this document, I am prepared to argue.

THE COURT: All right.

MR. SILETS: Thank you.

THE CLERK: Raise your right hand. Do you solemnly swear that the testimony you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat, sir.

VERNON FRANCIS HEGARTY,

a witness called at the instance of the Defendant James R. Hoffa, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BERKE:

Q Will you please state your name, sir?

A Vernon Francis Hegarty.

Q And how do you spell your name?

A (Spelling) H-e-g-a-r-t-y.

Q You are not in any way related to Mr. Haggerty?

A No, sir.

Q It's a different spelling?

A Yes, sir.

Q Sounds alike, right?

A Yes, sir.

Q What is your age, Mr. Hegarty?

A Forty-nine.

Q I beg your pardon?

A Forty-nine, sir.

Q And where do you live?

A 205 Park Road, Alexandria, Virginia.

Q Is that a suburb of Washington, D. C.?

A That's correct.

Q What is your business, Mr. Hegarty?

A I am head of the audit control office in the General Secretary and Treasurer's Office of the International Brotherhood of Teamsters in Washington, D. C.

Q And where is your office located?

A No. 25 Louisiana Avenue, Northwest.

Q What are some of your duties there, Mr. Hegarty?

A I take care of, one of the duties, I take care of the auditing of the telephone bills which is rather large every month. It runs about $8,000 or $9,000 on the average. And take care of the Government Labor Department reports that are required to be filed with all the locals.

Q Keep your voice up so they can hear you, Mr. Hegarty.

A The Labor Department reports that are required to be filed by the government to be filed by all local unions

belonging to our International.

Q How long have you been working for the International Union, sir?

A Twenty-three years.

Q Do you keep telephone records of long distance calls and credit card calls which you receive from the telephone company in the regular course of your business?

A Yes, sir.

Q Was it in the regular course of such business for you to keep such records of transactions as they are received by you from the telephone company?

A That's correct, sir.

End Tk 38A
Tk 39 fls.

Q Did you at our request bring with you certain telephone records of long distance calls, particularly during the months of October, November and December, 1962, with reference to the International Union in Washington, D. C.?

A Yes, sir, I have them here.

Q Do you have those records with you, sir?

A Yes, sir.

Q First, let me ask you insofar as the volume of calls and so forth is concerned, did you, from the records, make a list of the number of credit card calls with the cost and a number of other long distance calls not on credit cards for the months of October, November and December, 1962?

A They were made at my request by the secretary-treasurer's department.

MR. HOOKER: If Your Honor please, just in the interest of saving time, I don't see the possible materiality of this.

THE COURT: Well, proceed.

BY MR. BERKE:

Q For the month of October, 1962, will you refer to your records there, sir, and tell us how many credit card calls were made?

A 1,301.

Q How many?

A 1,301.

Q Now, how many other long distance calls that were not made on credit card, that is, made direct during the same month?

A 2,053.

Q All right. Now, how about for the month of November, 1962, how many credit card calls were made?

A 1,035.

Q How many other long distance calls other than credit card calls were made?

A 1,379.

Q Now, for the month of December, 1962, how many credit card calls were made?

A 893.

Q And how many other long distance calls were made?

A 1,204.

Q Now, for the three months period how many credit card calls were made for those three months, October, November and December, 1962?

A 3,229.

Q And how many other long distance calls other than credit card calls were made during that three months period?

A 4,636.

Q All right, sir. Now, did you at my request get the number of credit card calls that Mr. James R. Hoffa made during the months of October, November and December, 1962?

A Yes, sir.

Q How many credit card calls did Mr. Hoffa make in October, 1962?

A 65 calls.

Q How many were made in November, 1962?

A 73 calls.

Q And how many were made in December, 1962?

A 64 calls.

Q All right. Sir, did you at my request check the calls that Mr. Hoffa made with the Defendant Allen Dorfman during the latter part of 1962 and the first month of 1963?

A Yes, sir.

Q All right, sir. First in numbers only. Now, these are calls, as I understand it, from Mr. Hoffa to Allen Dorfman, is that correct, sir?

A That is right, sir.

Q All right. What information do you have about the number of calls that you have there that were made between Mr. Hoffa and Mr. Allen Dorfman?

A From Mr. Hoffa to Mr. Dorfman at WA.5-5980 there were made 18 calls.

Q You say 18 calls?

A That's right, sir.

Q Beg your pardon?

A That is right, sir.

Q And during what period of time did that cover?

A Well, a couple of those calls are back in July, I don't think that you would be concerned about, that would be 15 calls from 10-20-62 to 1-28-63.

Q In other words, for three months period beginning October the 20th, 1962, you say there was about 18 calls? Did he say 15?

A 15 calls.

Q 15. Excuse me, sir. Now, these calls that you are testifying about, they do not include calls that Mr. Dorfman might have made to Mr. Hoffa or to the International Union, do they?

A No, sir.

Q These are just calls made by Mr. Hoffa to Mr. Dorfman, is that correct?

A That is correct, sir.

Q All right, sir. Now, did this include the calls from the Whitehall number?

A The Whitehall number, there are three calls to the Whitehall number.

Q Now, is the Whitehall number, is that the residence of Mr. Dorfman or is it his office?

A That is his office.

Q Office. Now, when you spoke about 15, did that include those three calls?

A No, sir.

Q Would that make it then 18 calls?

A That is right, sir.

Q All right, sir. Now, Mr. Hegarty, I will ask you if you have a record of the number of calls made by the International Union to Allen Dorfman?

A I have a listing of other calls made from the International Union to Allen Dorfman.

Q All right, sir. Do you have a record of those calls?

A Yes, sir.

Q May I see them,please, sir? I will ask you to look at these tickets, which I am sending up to you now, sir, and will you tell the court and jury what those are.

A The first one I have here is 821 from New York to Dearfield, Illinois, WR 5--

Q (Interposing) First just tell us what all of those tickets are, what do they represent?

A These are photostatic copies of invoices sent us by the Chesapeake and Potomac Telephone Company to STerling 3-0525 in Washington, D. C.

Q Now, have you gone through those, sir, and made a list of the calls made to Mr. Dorfman from the International Union telephone?

A Yes, sir.

Q I will ask you to look at this and see if this is a composite list which you have made up from those tickets that you have there.

A This includes all calls beginning with 9-27. I didn't go back beyond that. I have a couple of photostats here that go back beyond it.

Q Do all of those smaller tickets that you have there, the group of them, do they include both the credit card calls and the other long distance calls, too?

A These here include credit card and other long distant calls other than Mr. Hoffa's.

Q All right. Now, have you on a separate list there a list of all of the credit card calls that--, have you compiled that list that Mr. Hoffa made on his credit card calls, made to Allen Dorfman?

A Yes, sir.

Q Or his business?

A Yes, sir.

Q All right. I will ask you to file first the small group of tickets for identification and let the government see it and the other two sheets? Let's just file them all as a collective exhibit, I think would be the best way to do that, or file the two sheets and the other tickets as a collective exhibit.

MR. DALE: 214.

MR. HOOKER: We have no objection to this, if Your Honor please, but we call attention to the fact that this is a chart of calls, the same thing as we offered and if this is going to be admitted in evidence we think our chart ought to be admitted to all this list.

MR. BERKE: This is not a chart of calls, if Your Honor please.

MR. HOOKER: Is a chart in effect of these calls, not the original records themselves. We have no objection to it but we think ours is admissible on the same basis.

MR. BERKE: But I believe, Mr. Hooker, if you will look at it you will be pleased that you have these in the manner in which they show them, otherwise we have to pull out each ticket to find each call.

Now, Mr. Haggerty has saved us a lot of work by doing that and placed them all on one sheet.

Now, we have no objection if Mr. Hooker wants to object to it. We can withdraw the sheets but it would be a tedious task of having this witness--

MR. HOOKER: (Interposing) We have no objection to it but we think it is admissible but we think our list is too.

MR. BERKE: If Your Honor please, we are not taking it in on that basis, we think--

THE COURT: (Interposing) All right. Let's proceed.

There is nothing for the Court to rule upon.

MR. HOOKER: We would like to see it, Mr. Berke.

MR. BERKE: May we have a number on that, sir?

MR. DALE: It's number 214.

(The telephone records and compiliation referred to above were marked Defendant Hoffa's Collective Exhibit No. 214 for identification only.)

MR. HOOKER: Is it all one exhibit?

MR. BERKE: Mr. Marshal, will you give that to the government?

End 39

40 fol.

Q Is there any objection to that being filed as evidence, Mr. Hooker?

MR. HOOKER: No, sir.

MR. BERKE: If your Honor please, we would like to have that introduced as evidence in the absence of an objection.

MR. HOOKER: We don't honestly see the materiality and relevancy of it but we are not interposing an objection if the Court thinks it is any evidentiary value.

THE COURT: All right.

MR. BERKE: All right. That is all for this witness, your Honor.

(The telephone company records previously marked for identification as Exhibit No. 214 were received in evidence.)

MR. HOOKER: Just one question. Any other counsel?

CROSS EXAMINATION

BY MR. HOOKER:

Q Mr. Hegarty, I want to ask you what was Mr. James R. Hoffa's credit card number during the calendar year 1962?

A Sterling 3-0525-B-4-K-32.

Q Now, the B-4 --

THE COURT: (Interposing) Just a moment, I missed that.

THE WITNESS: Sterling 3-0525-B-4-K-32.

BY MR. HOOKER:

Q Now, the Sterling, that would be the same as 783?

A That is correct.

Q 0525?

A Yes.

Q B-4-K-32?

A That's correct.

Q Now the B-4 is the part of the very card number that designates the individual in that group that is to use the card, is it not?

A That's correct.

Q The K-32 is the designation of the year?

A Right, sir.

Q That shows it was for the year 1962, the remainder of the number, 783-0525 is the telephone number of the International Teamsters, is it not?

A That is correct.

Q And B-4 designates the individual as I have stated?

A Yes.

Q Now, Mr. Hoffa was the only one that had the right to use the card with the B-4 on it during 1962, was he not?

A He should be the only one to use it, that is

correct.

Q That is the card, the particular --, the others had different numbers? B-5 or B-6, something else, did they not?

A That's right.

Q What was yours? Do you remember?

A I have none.

Q You have none, but there were some others that had cards?

A That's right.

Q But the B-4 was Mr. Hoffa's card for him to use individually?

A Yes.

MR. HOOKER: That is all.

THE COURT: All right.

MR. BERKE: That is all, your Honor.

THE COURT: All right, you may be excused, sir. Do you have another short witness you wish to use?

MR. HAGGERTY: We have no more short witnesses, your Honor.

(Witness excused.)

THE COURT: All right. Ladies and gentlemen, then, at this time, we will excuse the jury under the same instructions that the Court always gives you, that is, do not discuss the case or allow anyone to talk with you about

it. Be back at nine o'clock tomorrow morning.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: Have the jury wait out there just a moment. Were there any witnesses now that we have reserved anything on today? Examination or cross examination? Further?

MR. NEAL: We reserved on Mr. Bloomenstiel, your Honor, and I think we will be ready to go in the morning. If this man is not being held here by the defendants, I assume he is being held here by the defendants for cross examination.

MR. BERKE: You held him here as I --

MR. HOOKER: (Interposing) We asked him to remain.

MR. NEAL: He is in the court record to remain.

MR. HOOKER: Told your Honor we wanted him.

THE COURT: If there is any question about it --

MR. HOOKER: (Interposing) All we're interested in is whether he will be here in the morning or not.

MR. SCHIFFER: Mr. Reynolds, your Honor, was reserved as well.

THE COURT: Yes.

MR. HAGGERTY: Your Honor reserved decision on the Witness Urdahl who is subpoenaed.

THE COURT: Yes, I will have to study that tonight.

MR. HOOKER: Of course, Mr. Pitcher further.

THE COURT: Mr. Pitcher?

MR. HOOKER: Yes, sir, he was asked to remain.

THE COURT: All right, the jury may be excused. Now, then, what was the objection --, the Court still has not had an opportunity to read Exhibit No. 213, suppose first, Mr. Silets, you state to the Court your position with regard to the relevance of Exhibit No. 213.

MR. SILETS: Your Honor, Exhibit No. 213 will show among other things the docket entries, the fact that the indictment was returned, continuances were asked for by the government at or about the time of the first conversations with Mr. Partin at which time he volunteered to become an informant for the government.

The record will also show that the Court at one point in the proceedings was very adamant about moving the case along.

End 40
40a fls

The government did not take a contrary position. This document also shows that contrary to what Mr. Lacour says that there was a motion by the government that it be continued generally and that the matter be reassigned.

In addition there will be in this document you will see the report of the proceedings of the United States Commission where it will be pointed out that the bonding company asked to be removed from the bond on October 6, the same day of this conversation between Witness Partin and representatives of the government. That they asked to be removed from the bond because he was incarcerated and was in jail on the state charge of kidnapping.

All of these things are directly relevant and directly relevant and directly material to the theory of the defense.

Namely, that Partin had the best motive in the world to fabricate and create this testimony so that he could first be released from jail and secondly stay out on bond and thirdly have his 26-count federal indictment to be continued indefinitely while he appeared here and gave his testimony. The theory of our defense is that there is a very great ulterior motive for his testimony. He is seeking to purchase his peace with the government.

Not only the federal but the state government, State of Louisiana, by giving the testimony here and these

matters that are included in it, certain exemplified copy of the proceedings is directly material and relevant to the theory of our defense.

THE COURT: All right, what is the basis of any objection by the government?

MR. HOOKER: We object to it on the grounds, if your Honor please, that it is a collateral matter. Involves trial of another case. That it is not relevant to this inquiry here. That it is immaterial. Just gets us off into another field, off on another tangent, and we have never seen the exhibit, but that is our objection to it.

MR. NEAL: Your Honor, may I point out also in that regard, this matter has been explored, re-explored time and time and time again. The witness has admitted there is a federal indictment pending. They have called witnesses in here to ask them if there had been any promises made to them. They have gone into this in minute detail, your Honor. There comes a point where these things the Court in its discretion can cut them off. Undoubtedly they want to get this in the record and read it to the jury again about this phony kidnapping indictment that was dropped.

MR. HAGGERTY: Phony?

MR. SCHIFFER: I never thought the government would admit to filing a phony indictment.

MR. NEAL: May it please the Court, I can not

make a statement without Mr. Haggerty jumps up, a man who has been presenting in here on matters for weeks. Of course, Mr. Schiffer, I don't expect any better. But I do Mr. Haggerty. It seems to me, your Honor, this is just another effort as has been going on all the way along to prejudice this jury by matters that are clearly collateral, but I want the Court to understand that the government has not taken a position that they cannot show indictments pending by the federal government, certainly they can. But they can't keep showing it again and again and again and again and again and they have no right to go into indictments that might or might not have been pending by the state.

End 40a
1 fls

And bail bond and that sort of thing. They have no right to go into collateral or extrinsic evidence.

THE COURT: All right.

MR. NEAL: The witness admitted on direct that the indictment was pending against him. Now, they can argue about the Federal Government, they can argue from that to whatever they want to, but they have no right to keep going into this and going into this. The Court was most lenient on cross examination. The Court has tried to prevent these intrinsic matters from coming in but they have drug these witnesses in here to talk about little Susie Crabtree.

THE COURT: Well, let's stay on this matter.

MR. NEAL: All these other things until the Court should cut them off.

MR. HOOKER: My position is that he was asked about it and answered it, if your Honor please, that there were indictments and that ends the inquiry.

THE COURT: All right.

MR. SILETS: Of course, my position is, your Honor, that this is substantive evidence establishing the defense of my client.

Now, I cannot be responsible for whatever anybody puts in in their defense. I only say this, that this is perfectly competent material and relevant to the matters of the defense and this indicates and will spell out clearly

and succinctly to the jury the issues, the continuances at the insistence of the government, the reason why the bond was taken off and all of the other things that I pointed out originally. It is substantive evidence and I think your Honor should admit it.

THE COURT: All right.

MR. NEAL: Your Honor, there is one thing, is this--we haven't seen--is this supposed to be the full court docket?

MR. BERKE: We just filed it, it's not a secret document.

MR. NEAL: Supposed to be a full court docket?

MR. SILETS: You better take a look at that, Mr. Neal, I think it says on the face what the Clerk has certified it to be, I can't vouch for it being one thing or another.

THE COURT: After you have examined it, return it to the Court and make it available for the Court to inspect overnight.

All right. Is there any other specific matter?

MR. HAGGERTY: The secret, or the copies of the secret hearing we were to get from the reporter.

THE COURT: That has been turned over to the reporter for distribution.

THE REPORTER: They are right here, your Honor.

THE COURT: All right.

MR. HAGGERTY: Your Honor, I have a motion and memo in support of a motion to require the government to disclose specifically and unequivocally to the Court whether or not it has additional electronic recordings of any conversations involving the defendants, all of the defendants join in this motion.

THE COURT: All right.

MR. BERKE: If your Honor please, on this motion we don't think there should be any delay on this, if your Honor please, we think that this should be answered forthwith because this is about the fifth or sixth time we have made this request.

THE COURT: Yes, you may respond to it in the morning or otherwise advise the Court.

Any other specific matters? If not, does anybody want to argue about matters in general? If not, we will adjourn court until nine o'clock tomorrow.

(Thereupon, at 4:42 o'clock P.M. court was adjourned until nine o'clock A.M., February 25, 1964.)

End Tk 41

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 24, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 24th day of February, 1964.

Fred B. Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	[redacted]
	:	
	:	NO. 11,989
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 27, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XXX

PAGES 7732 TO 8013

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NUMBER	DESCRIPTION	For Ident.	In Evidence
235	Sheets report 12/12/62	7756	
236	Photostat copy of newspaper	7803	
237	14 page document	7810	
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TWENTY-NINTH DAY OF TRIAL

9:00 O'Clock, A. M.
February 27, 1964

(Thereupon, pursuant to adjournment from February 26, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Note a correction in the record at page 7625, line 23, the word "should" (spelling) s-h-o-u-l-d should be substituted for the word "would" (spelling) w-o-u-l-d.

With regard to the government's offer of rebuttal testimony as to any conversations of Agents Sheets and Norwood with Mr. Tweel, the Court is of the opinion that the objection to that should be sustained.

With regard to the offer of proof for rebuttal of the Witness Sheridan, the Court is of the opinion that that objection should be sustained and that testimony not allowed to be introduced as rebuttal testimony.

With regard to the offer of rebuttal testimony of the Witness William Foster relating to matters pertaining to the flight to Nashville of Mr. Dorfman, the Court is of the opinion that objection to that testimony should be sustained and that should not be admitted as rebuttal testimony.

With regard to the offer of rebuttal testimony

of the Witnesses Sheets and Norwood as to statements of the Witness Parks, the Court is of the opinion that that testimony should be allowed as rebuttal testimony.

The record reflects at page 5993 that the Witness Parks, in response to a question stated, "I don't recall even having a conversation with Mr. Sheets and Norwood concerning that."

The meaning of that statement would depend upon the inflection and upon other matters and would certainly be a question for the jury to pass upon, moreover the cases seem to be clear that a statement by a witness that he does not recall a certain statement is sufficient foundation for rebuttal testimony. In that regard, I would refer to McCormick on Evidence, page 68, 58 American Jurisprudence on Witnesses, Section 780, and 2 Vanderbilt Law Review, page 317.

With regard to the written motion filed upon yesterday, February 26th, to admit FBI statements of Witnesses Fields and Walker, the motion having been made on behalf of the attorney or by the attorney for Mr. Parks, the Court is of the opinion that those statements would not be properly admitted into evidence for any purpose other than identification and that motion should be denied.

End 1
2 fls

The Court ruled yesterday upon the various motions of defendants for judgment of acquittal; written motions were filed at the same time on behalf of each defendant and the Court is of the opinion that each of those written motions should be overruled.

At Page 7610 in the record, the Court referring to the offer of proof of the defendants of the witness Mrs. Partin, stated that it was the Court's opinion among other matters that the offer of proof was not proper to be filed. I think that I should clarify the record there as to what the Court meant in that respect, and that is, that the Court meant that an offer of proof made after the witness has been excused is not a proper offer of proof. The offer of proof on this witness was made at the time that the witness was presented. All right.

MR. SILETS: Your Honor, my recollection was that the offer of proof was made at or about the time of her testimony?

THE COURT: Well, the offer of proof was filed and turned in to the Court sometime after the witness had testified and had been excused. As a matter of fact, it was turned in over the week end. If I'm not mistaken. The record reflects. There was an offer of proof made at the time that the witness was offered for testifying and the Court ruled on that offer of proof. The written offer of

proof was made after the witness was excused and the Court has sustained the objection to that on both grounds.

On the ground that the Court is of the opinion that the matters in the offer of proof are not relevant or competent or material and on the grounds that it was not proper to file an offer of proof after a witness had been excused.

MR. SILETS: Well, it is as to the second ground that I'm directing the Court; it was my recollection that that occurred I think Friday. Mr. Berke had made the oral offer. And with leave of the Court was granted permission to file a written offer of proof, over the week end, not only Mrs. Partin but I think several of the others.

THE COURT: I think the record will reflect clearly whatever the facts are in that regard. We can go back and check the record on Friday with respect to that.

MR. NEAL: Before the jury comes in, Your Honor, we have the witness Mr. Clarence Evans and he would like to get the question of competency or privilege determined out of the presence of the jury and the government would; we make the offer of proof with regard to Mr. Evans.

MR. GRADY: We say there is no groundwork of any type of rebuttal with regard to Mr. Evans and there is a question of privilege which Mr. Tweel does not waive.

MR. NEAL: I don't think there will be any

question of privilege in this conversation. This involves the testimony of the Defendant Tweel that I threatened him with indictment. The whole essence of the thing is that I told him to change his testimony and testify against the Defendant Hoffa or I would indict him. It doesn't say so in so many words. It is quite cleverly worded. But it starts at Page--, Mr. Berke asked this starting at Page 5588.

THE COURT: Sorry, someone coughed and I missed the citation.

MR. NEAL: I think the first statement of it, Your Honor, is at Page 5588.

THE COURT: All right.

MR. NEAL: It says this: "Question: Mr. Tweel, one or two questions here. At any time during your conversations with the government agents, either before or after the Grand Jury met, did they threaten you with an indictment?

"Answer: Yes, sir. Mr. Neal threatened to indict me if I didn't change my testimony at the last meeting I had in Nashville, Tennessee.

"Question: How did they threaten you or what did they do to tell you you can keep from being indicted?"

Then it says something about:"Answer: Well, they first told me they thought my wife and children had been threatened. I told them that it was ridiculous. My family

hadn't been threatened."

Then he goes on to say: "Discussed the possibility of indictment, of indicting me, told me my testimony was not true and I told them I gave them my testimony to the best of my knowledge and recollection. Under the circumstances I couldn't help that. I couldn't help implicate Mr. Hoffa, a man whom I didn't know, never met, never been acquainted with him. I had only known Mr. Dorfman probably eight or nine months at that time, maybe a year at the most.

"Question: Did they tell you why they wanted you to swear against Mr. Hoffa?

"Answer: Sir?

"Question: Did they tell you why they wanted you to swear against Mr. Hoffa?

"Answer: Well, they didn't explain it in any detail, but I could tell from the tenor of their conversation that they probably would liked to have had some more evidence or something on Mr. Hoffa."

End 2
Tk 3 fol.

Then that is the end. Then over here, Mr. Hooker, at Page 5590 it says, "I believe, Mr. Tweel, I want to ask you who was present at the time you claim Mr. Neal threatened you with an indictment?

"Answer: Mr. Shaffer, Mr. Durkin, and I believe Mr. Sheridan.

"Question: Wasn't also Mr. Clarence Evans, a lawyer in Nashville, who was down there with you? Went with you?

"Mr. Evans had already gotten up to leave and this was at the doorway and Mr. Tweel was standing there, in fact, Mr. Neal was sort of feeling my arms, see how strong I was, and told me it would be a fact that I would be indicted.

"Well, was Mr. Evans there with you?

"No, he had gotten up. The meeting was over at that particular time.

"Well, was he out of the room?

"I don't know where Mr. Evans was. He may have been there. He may not have been there.

"Well, was he in position to have heard it?

"Possibly.

"Possibly was and Mr. Neal was there?

"I know this, Mr. Hooker, that Mr. Evans and I discussed it as we left the building and went up to his office.

"Discussed the fact that he threatened to indict you?

"Answer: That's right.

"Question: And so he did know about it?

"Answer: Well, I would say he did."

MR. SILETS: Your Honor--

MR. GRADY: (Interposing) No foundation.

MR. ALEXANDER: There's no foundation. This is a privileged matter and Mr. Evans very clearly--Mr. Tweel very clearly said--Mr. Neal just read it--Mr. Evans had already gotten up to leave and was at the doorway and Mr. Neal was standing there, "In fact, Mr. Neal was sort of feeling my arms."

"Question: Well, was Mr. Evans there with you?

"No, he had gotten up. The meeting was over at that particular time.

"Well, was he out of the room?

"Answer: I don't know where Mr. Evans was."

MR. NEAL: Well, he goes on, I read the whole thing, your Honor.

MR. SILETS: But the balance, your Honor, is a privileged communication between attorney and client. If Mr. Tweel, as he was walking out of the building said, "Neal threatened to indict me." This is a communication between an attorney and a client.

3-3

Q Now, if he is going to call Evans to the stand and Evans is going to say exactly what Tweel said that he didn't, that he wasn't there when it happened because he had walked out the door and while Neal is squeezing Tweel's arm and saying,"You are going to be indicted," Evans is out of the building, there is no inconsistency, but if he is calling Evans to say, "Well, I was walking out of the building with Tweel, Tweel told me A, B, C and D."

MR. NEAL: I won't ask this lawyer anything that was said when the two were present alone and I think your Honor knows that when I was present, other government attorneys present, there is no privileged communication involved in a conference, a conversation between government attorneys and an individual and his lawyer.

Now, here is the offer of proof, it would be something like this, I don't know what, in what detail Mr. Evans would say but whatever the truth is Mr. Evans will say it, but here is what he told me and I put it in an affidavit, "With respect to the affidavit of Mr. Tweel, your affiant," that is me at the pre-trial motion, "your affiant called Mr. Evans, the attorney referred to therein, and requested an affidavit to be attached hereto; that Mr. Evans understandably declined voluntarily to furnish an affidavit contrary to that of his former client; that Mr. Evans did state to your affiant that in the interview referred to by

3 - 4 .

Tweel, government attorneys were firm, but courteous and genteel, and made no threats or insults to Tweel in any manner whatsoever; that he did remember the government frankly stating to Mr. Tweel it must consider him a possible defendant, but that he did not consider this a threat, but rather a frank statement of the government's position; and Mr. Evans further stated to your affiant that if he were subpoenaed to testify, he would testify to the above."

Now, I don't know that--that just simply rebuts the testimony of Mr. Tweel, certainly we could not put that on in our case in chief.

MR. ALEXANDER: There is no way in the world that rebuts the testimony of Mr. Tweel. Mr. Tweel said he didn't know whether Mr. Evans was present or not, that the meeting was over, that it had broken up, and then they say, "Did Mr. Evans know about this?"

And he says, "Possibly we discussed it as we walked down the street together."

There is no inconsistency and certainly Mr. Evans could not testify to something, a conversation that occurred as they were leaving the courthouse.

MR. NEAL: There is no question about that, Mr. Alexander. We wouldn't question him about it. The question is whether heard any threats made during this conversation and how the defendant was treated, that's what we want to

ask him.

MR. GRADY: Your Honor, this testimony here binds it in the record and the testimony is that as he was leaving at the door these other lawyers were in the room.

Mr. Neal made the statement to him, he doesn't say they heard it, he merely said they were present in the room and he doesn't say that Evans heard it. If Mr. Neal wants to take the stand and rebut it, open himself to cross examination as to whether he made such statement to other people, why, we think that would be proper.

MR. NEAL: I never made this statement to anybody in my life, I tell you this. He says he was asked by Mr. Hooker, well, was he in a position to have heard it?

The answer is, "Possibly."

MR. BERKE: That's the point they are all missing, it's not an unequivocal denial and that is one of the requisites before it can be rebuttal testimony.

MR. NEAL: This is not in the nature of a prior inconsistent statement, this is rebuttal testimony for whatever weight the jury wants to give it.

THE COURT: Well, we seem to have the precedent established for attorneys participating in the case also being witnesses, but I am of the opinion that this is sufficiently developed to where I am going to reserve any ruling on it at this time; I will study the record on that point

3 - 6

at the first recess.

MR. NEAL: Did your Honor get the citation, 5588 and following over for the next page or two and then at 5591?

THE COURT: All right.

MR. ALEXANDER: Now, Mr. Tweel does not waive that privilege, if it please your Honor.

THE COURT: All right.

MR. NEAL: He was not asked anything about any conversation walking when only the two were present. I thought I made that clear.

THE COURT: All right. Let's proceed with the next witness.

End Tk 3
Tk 3A fls.

MR. NEAL: We are ready for Mr. Sheets and Mr. Norwood then.

THE COURT: All right.

MR. BRANSTETTER: As I understand the ruling of the Court the testimony of Sheets and Norwood is made admissible to show any prior inconsistent statements, then I would respectfully request that the Court hold counsel to the specific matter asked him if he did make such a statement. He can answer that he did and that is all. If they are seeking to impeach that's all that can be asked, no other details whatsoever.

MR. NEAL: Well, it's admissible as to Parks for all purposes, impeachment or other.

MR. BRANSTETTER: Oh --

MR. NEAL: (Interposing) May I finish?

MR. BRANSTETTER: Yes.

MR. NEAL: I will stick to the very matter of the offer of proof, no question about that, as to what the statements were made by the Defendant Parks to these gentlemen.

MR. BRANSTETTER: That is just it, may it please the Court, the offer of proof went beyond the establishment of a prior -- seeking to establish a prior inconsistent statement; I think he should be held to that if the jury is going to hear it.

MR. SCHIFFER: I should make a further objection

with an exception to your Honor's ruling on the ground there is no prior inconsistent testimony in this record and that the entire line now of Mr. Sheets and Mr. Norwood is entirely improper.

MR. BERKE: If your Honor please, we think the testimony should be limited to the fact that they did have a conversation with Mr. Parks which Parks denied but not the contents of it because he didn't deny the contents of it, he simply said he didn't recollect it. We think that it should be limited only to the fact that he did have a conversation.

MR. NEAL: I understand that I can go through my offer of proof?

THE COURT: Yes, let's proceed, gentlemen.

MR. BRANSTETTER: May it please the Court, the one factor there that Mr. Neal is insisting on that this is to be substantive testimony, is highly erroneous; he can only ask him if he recalls the conversation that took place as a prior inconsistent statement because we get back to the substantive proof and it will go on.

THE COURT: Let's proceed.

MR. BRANSTETTER: We want an instruction to the jury that that is the sole purpose, just like --

THE COURT: (Interposing) The Court will instruct the jury as the Court understands the law.

THE COURT: Let's have the witness come in and have the jury.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: Good morning ladies and gentlemen.

(Thereupon, the witness, William L. Sheets was put on the witness stand.)

THE COURT: You may proceed, Mr. Neal.

MR. NEAL: Thank you, Your Honor.

WILLIAM L. SHEETS,

a witness called in rebuttal at the instance of the United States of America, having previously been duly sworn, was further examined and further testified as follows:

DIRECT EXAMINATION

BY MR. NEAL:

Q You are Mr. William Sheets?

A I am, sir.

Q Now, would you speak up Mr. Sheets so the defense counsel can all hear you?

A Yes, sir.

Q I believe you are an agent of the Federal Bureau of Investigation?

A Yes, sir.

Q Special agent?

A Yes, sir.

Q Where are you stationed?

A Nashville, Tennessee.

Q Were you stationed in Nashville, Tennessee on October, November and December, 1962, Mr. Sheets?

A I was.

Q Did you have occasion, sir, on or around December 12, 1962, December 12, 1962 to interview the Defendant, Thomas Ewing Parks?

A Yes, sir.

Q Who was present during this interview?

A Special Agent Francis Norwood.

Q Is he also a special agent of the FBI?

A Yes, sir.

Q Was he stationed at Nashville, Tennessee during this time?

A Yes, sir.

Q Pardon me?

A Yes, sir.

Q During this interview on or around December 12, 1962 was the Hoffa trial still in progress?

A Yes, sir.

Q Did the Defendant Parks say anything to you with respect to any contacts with his nephew?

MR. SCHIFFER: I object to the form of the

question at this time because any conversation, Your Honor, would be limited to who said it and what they said but not leading.

MR. BRANSTETTER: May it please the Court, I think the very point that is being discussed is this, the witness on direct examination, Mr. Parks, stated that he did not recall the conversation. Now, if Mr. Neal is calling this witness for the purpose that he was permitted to do so the only thing that he can show is that the conversation took place.

THE COURT: Well, overrule that objection.

BY MR. NEAL:

Q During this occasion, December 12, 1962 during the course of the Hoffa trial, when you interviewed the Defendant Parks, did he say anything with respect to whether or not he had been in contact with his nephew, Larry Campbell?

MR. SCHIFFER: We object to the question, form of the question, leading question.

THE COURT: Overrule the objection.

THE WITNESS: Mr. Parks said he had not seen his nephew, Larry Campbell, in approximately two years. He had not seen or talked with him.

BY MR. NEAL:

Q Had not seen or talked with his nephew, Larry Campbell, in approximately two years?

MR. BRANSTETTER: The witness is testifying. Let counsel ask questions, not make statements.

THE COURT: Sustained.

BY MR. NEAL:

Q This was on December 12, 1962?

A Yes, sir.

THE COURT: Ladies and gentlemen, with regard to this testimony, it may be considered by the jury only as to the Defendant Parks and not as to any other defendant. It may be considered as to the Defendant Parks only as it may or may not tend to impeach the said Defendant Parks. Or as it may or may not tend to evidence any guilty consciousness on the part of the said Defendant Parks. Proceed.

BY MR. NEAL:

Q Now, Mr. Sheets, did he say anything about whether or not he had any knowledge of Campbell's whereabouts during the months of October, November, December, 1962?

A He said he did not know that Larry had been in Louisville, Kentucky.

Q Did not know.

THE COURT: Observe the same instructions of the Court with regard to that testimony.

MR. NEAL: You may examine him.

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Sheets, did he tell you that the last time he saw Larry Campbell in Nashville, Tennessee was when he was taking a truck to Tent City in West Tennessee?

A He said approximately two years ago. He did not mention the truck.

Q That would have been 1961, wouldn't it?

A Yes, sir.

Q And that was the last time he had seen him in Nashville.

MR. BRANSTETTER: Now, may it please the Court, I believe that we would be entitled to any statements or reports that this particular witness may have given to the government. We have not seen those previously nor been furnished the matter and I think we are entitled to them. We would like to have them.

MR. NEAL: We don't know whether Your Honor, whether they would be entitled to them, but I think we can turn them over to move things along.

MR. BRANSTETTER: Counsel knows we are entitled to them.

MR. NEAL: May the record show that we turned over the FBI report of the interview of this witness with the Defendant Parks on December 12, 1962.

MR. BRANSTETTER: May it please the Court, we can read what date it is. I don't think counsel needs to make

a statement.

MR. NEAL: I want the record to show what is being turned over in case there is any question.

THE COURT: All right.

BY MR. BRANSTETTER:

Q Mr. Sheets, I believe that Mr. Parks told you also on this occasion that he had had a cousin that had died in November, 1962 in Louisville, Kentucky?

A Yes, sir.

Q He also told you that he had relatives or friends there in the operation of a funeral home?

A Yes, sir.

Q The fact he told you, in Louisville, Kentucky--

MR. NEAL: Where?

BY MR. BRANSTETTER:

Q In the operation of the funeral home, Porter Funeral Home that was in Louisville, Kentucky, that he told you about?

A Yes, sir.

Q He told you that he talked by phone with a cousin, Parks Lee Davidson, who resided at 26 and Hale Streets, in Louisville, Kentucky?

A Yes, I believe on two occasions.

Q Yes, sir. He also told you that he had made a number of long distance calls to Louisville, Kentucky in

reference to the relative or relatives that had died and also to the funeral home?

A Yes, sir.

Q During November, 1962?

A Yes, sir.

MR. SCHIFFER: Would Your Honor indulge me a moment?

CROSS EXAMINATION

BY MR. SCHIFFER:

Q Mr. Sheets, did you get a copy of this report, this Jencks statement to Mr. Parks?

A No, sir.

Q Now, is this report which you have, purport to state everything which occurred at that meeting?

A Yes, sir, everything that I considered material.

Q Everything that you considered material?

A Yes, sir.

Q But you did not put down everything he stated to you, did you?

A I believe I did.

Q You believe you did?

A Yes.

Q Where are the original notes which you made and from which you compiled this exhibit or this paper, this December 18th statement, 1962?

A After I dictated the report, after the report was written, after I compared the original notes with the report, and approved it, I destroyed the notes.

Q Well, tell me this, you have testified in this case before, you have testified in a similar way concerning your original notes. Do you prepare your original notes and then prepare from those original notes what is a Jencks statement and with the purpose of subverting the defendant, do you destroy the original notes so no one can check them against what you say in your original report?

A No, sir.

Q You do not do that, do you?

A No, sir.

Q It is the policy now of the department, is it not, to destroy your original notes?

A It has been the policy of the FBI for many years to destroy the notes.

MR. NEAL: Let the witness finish.

MR. SCHIFFER: Would you continue? Had you completed your answer?

THE WITNESS: I don't know whether I finished or not, I said it had been the policy of the FBI for many years to destroy the original notes of that--

MR. SCHIFFER: (Interposing) Purpose of--

MR. HOOKER: (Interposing) Let him answer.

THE WITNESS: No, sir.

BY MR. SCHIFFER:

Q Do you know what I'm going to ask you?

A Yes, sir.

THE COURT: Just a moment, the witness did not complete his answer.

MR. SCHIFFER: I thought he said he had, Your Honor.

THE COURT: No, sir, he was still answering. Did you complete your answer?

THE WITNESS: Yes, sir.

THE COURT: All right.

BY MR. SCHIFFER:

Q In this report at this time I will withdraw that question. Did Mr. Parks say to you, that because of your threatening manner to him, to get out and get a subpoena or summons the next time you want to come back to Mattie Mix's home and speak with him and Mattie Mix?

A No, sir.

End 4
4A fol.

Q Never said that at all?

A No, sir.

Q It does not appear in your report either, does it?

A No, sir.

Q Did that appear in your original notes?

A No, sir.

Q Are you depending upon your best recollection now?

A I know he did not say that.

Q In this report or in your original notes, isn't it a fact that Mr. Parks complained to you about anonymous telephone calls coming into Mattie Mix's residence from people representing themselves to be representatives of the FBI and making threats and didn't he tell you about it at that time?

A No, sir.

Q Weren't you present when he told that to Mr. Neal?

A No, sir. He mentioned something about that in a second interview I had with him.

Q He mentioned that in some interview?

A Yes, sir.

Q I am asking you on this particular interview on December 12th.

A He did not.

Q And your original notes are no longer in existence?

A That is right.

THE COURT: All right. Anything further?

MR. NEAL: Just one or two questions. Could we have the statement back if you are through with it, Mr. Schiffer, please?

MR. SCHIFFER: I beg your pardon.

MR. NEAL: We would like to have this statement marked for identification, the statement being examined about.

THE CLERK: No. 235, your Honor.

THE COURT: 235?

(The statement referred to above was marked for identification as Exhibit No. 235.)

MR. BRANSTETTER: Of course, this is just for identification?

THE COURT: Identification, yes, sir.

MR. BRANSTETTER: We object to it, your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. NEAL:

Q Mr. Sheets, is that the statement you dictated and caused to be typed as a result of your interview with Mr. Parks, Defendant Parks, on December 12, 1962?

A Yes, sir.

Q Does that statement show the date of the interview?

A Yes. December 12, 1962.

Q Does it show the agents conducting the interview?

A Yes, sir.

Q And does it show the date that the report was dictated?

A Yes, sir, December 13, 1962.

MR. NEAL: We would like to have this statement passed to the jury.

MR. BERKE: We object to it. We tried to get other statements in and they objected to it.

THE COURT: I sustain the objection.

MR. NEAL: All right.

BY MR. NEAL:

Q Now, Mr. Sheets, is it a policy of the Federal Bureau of Investigation to give any person interviewed a copy of the report, the FBI makes?

A Sorry, Mr. Neal, I didn't get that.

Q I say, what is the policy of the Federal Bureau of Investigation with respect to giving persons interviewed a copy of your report?

A We do not give any persons interviewed a copy of the report.

Q In any case?

A Well, if we took a signed statement from a person and he requested a copy of it, we would give him a copy of that, but not this type of report.

End Tk 4A

Q Did you take a signed statement from Mr. Parks?

A No, sir.

Q All right, sir. Now, you interviewed him on December 12th, 1962. You took notes during the interview?

A Yes, sir.

Q All right, sir. Now, would you just tell us what you did then, tell us what you did then, sir?

A The following day I dictated this report from my original notes.

Q From your original notes?

A Yes, sir.

Q The following day?

A Yes, sir.

Q This was still during the course of the Hoffa trial?

A Yes, sir.

Q '62. Did you then -- what did you do then?

A Well, after the report was typed by the stenographer and sent back to me, I compared the notes with the report, checked it for accuracy, found it to be accurate, and destroyed the notes.

Q You had your notes in one hand and dictated report in the other?

A Yes, sir.

Q You compared the dictated notes?

MR. BRANSTETTER: If it please the Court, let the witness testify.

THE COURT: Sustained.

BY MR. NEAL:

Q All right, what did you do with your notes?

A Destroyed them.

Q Now, is there any particular reason for destroying your notes?

MR. SCHIFFER: Objected to, your Honor.

THE COURT: Yes, sustained.

MR. NEAL: I thought Mr. Schiffer was the one who asked about this, your Honor.

THE COURT: All right. I will allow you to ask him.

BY MR. NEAL:

Q Any particular reason to destroy your original notes?

A Because we do not believe that the original notes are of evidentiary value.

Q And this is -- strike that --

MR. BRANSTETTER: (Interposing) Now, may it please the Court, may we have the answer stricken also to what he believes?

THE COURT: All right. I believe I will sustain the objection, strike the answer.

BY MR. NEAL:

Q You say this is a policy of the Federal Bureau of Investigation to do this?

MR. BERKE: If your Honor please, as far as the Defendant Hoffa, we want that statement in.

THE COURT: I believe he has already answered. Sustain the objection. Let's proceed, gentlemen.

MR. NEAL: All right.

BY MR. NEAL:

Q When did the policy start?

A Many years ago, Mr. Neal. I do not recall.

THE COURT: All right.

CROSS EXAMINATION

BY MR. SCHIFFER:

Q Isn't it a fact, Mr. Sheets, that the time that you recall the policy started was when Congress passed the law which we commonly refer to as the Jencks Act, that you had to keep these copies and keep a report and so to circumvent that statute you destroy your original notes and make up any kind of report you say represents your original notes?

MR. HOOKER: We object to that.

BY MR. SCHIFFER:

Q Isn't that right?

MR. HOOKER: That is not an accurate statement of what the Act provides.

MR. SCHIFFER: I am asking the question, your Honor. I am speaking about an Act of Congress which this agent now admits they subvert in any case.

THE COURT: I am going to sustain it.

BY MR. SCHIFFER:

Q Do you --

MR. HOOKER: (Interposing) We object and ask the jury to be instructed not to consider the argument of counsel.

THE COURT: Sustain the objection.

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Sheets, what you are trying to tell us now is that you or your FBI agents consider the original notes of no value but what you interpret the original notes to be to be of value, is that correct?

A We don't consider the original notes of value after we have used them for the purpose of preparing a report and checking the report for accuracy.

Q The question I asked you, Mr. Sheets, you consider your interpretation of the original notes to have more value than the original notes themselves, is that what you told this jury, isn't it?

A No, sir.

Q You mean you deny that you told the jury that you consider that your statement has more value than the original

notes themselves that you took from this man?

A I did not intend to say that, if I did, I do not believe I said it, Mr. Berke.

Q I think you did, but if you say now that is not true?

A No, sir.

Q So you say now that the original notes has more value than the statement?

A No, sir, I did not say that.

Q Well, does the statement have more value than the original notes?

A I'd say they are possibly of equal value until the report is written and then after the report is written it is our instructions that we do not keep the original notes and that happened long before the Jencks law.

Q Did you tell the jury that it was of equal value or did you tell the jury while ago that you consider your interpretation to be of more value than the original notes?

A No, sir.

Q Well, did you tell them it was equal value?

A No, sir, I don't believe I did.

Q Did you tell them that the statement that you drew up had more value than the original notes?

MR. HOOKER: Object to this as argument.

MR. BERKE: No, sir, your Honor.

THE COURT: Sustain the objection. The record will reflect what he said.

BY MR. BERKE:

Q Do you take shorthand?

A Yes, sir.

Q Your shorthand notes would be the accurate statement that he made, wouldn't it?

A My notes would reflect accurately what the man said.

Q So --

A (Interposing) Both shorthand and longhand.

Q All right. When you take shorthand notes you have got his exact statement but when you put it in one of those statements you put your interpretation, he said this and he said about so and so and so and so, but you don't put his direct quote in there, do you?

A At times I put --

MR. REDDY: (Interposing) I object to this as --

BY MR. BERKE:

Q (Interposing) You don't have a direct quote?

A I don't --

MR. REDDY: (Interposing) I object --

A (Interposing) I would have to read it and see.

Q All right. Look at that and see if you have got his direct quote or if you haven't got your interpretation

of what he said.

A I don't believe there is a direct quote in this report.

MR. BERKE: Yes, sir. Come down.

THE COURT: All right. Call your next witness.

(Witness excused.)

MR. NEAL: Mr. Norwood.

FRANCIS W. NORWOOD,

a witness called at the instance of the United States of America in rebuttal, having been previously duly sworn, was recalled and testified further as follows:

THE COURT: This witness has been previously sworn in the case, has he not?

MR. BERKE: Yes, he has been sworn.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. NEAL:

Q You have testified in this case previously, have you not, sir?

A Yes, sir, I have.

Q You testified, I believe, in the presence of the jury, didn't you?

A Yes, I did.

Q All right. You are Mr. Francis W. Norwood?

A That is correct.

Q By whom are you employed, sir?

A I am a special agent with the FBI.

Q Where are you stationed?

End 5
5a fls

A I am stationed at Nashville, Tennessee.

Q Where were you stationed in October, November and December, 1962, sir?

A I was stationed in Nashville, Tennessee.

Q Now, sir, did you have occasion on or about December 12th, 1962, to interview the Defendant Thomas Ewing Parks?

A Yes, sir, I did.

Q Who else was present at that time?

A Mr. Bill Sheets, William Sheets.

Q And Mr. Parks?

A And Mrs. Mix.

Q And you?

A Yes, and a Mrs. Mix.

Q Pardon me?

A A Mrs. Mix.

Q Mrs. Mix?

A Uh-hmm.

Q Was this during the course of the Hoffa trial in Nashville?

A Yes, sir, it was.

Q Now, at that time, sir, did the Defendant Parks make any statement with respect to whether or not he had been in contact, either personally or by telephone, with his nephew, Larry Campbell?

A Yes, he stated that he had not seen his nephew

Larry Campbell for two years.

Q Did he say anything about talking to him?

A He said he hadn't contacted him for two years.

Q Or talked to him in any way?

A In any way.

Q In two years?

A Yes, sir.

Q Did he make any statement with respect to whether or not he knew Larry Campbell was in Louisville, Kentucky during the months of October and November and December, 1962?

A No, he made no statement as to whether he knew that he was there at that time.

MR. BERKE: Mr. Neal, may I see the statement?

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q This occurred on December the 12th, 1962?

A Yes, sir, that is correct.

Q At Mattie Mix's residence?

A Yes, sir.

Q Now, would you describe the physical surroundings there in Mattie Mix's residence when this occurred? Were you inside of a house?

A Yes, sir, we were in the front room of her residence, living room.

Q And were you sitting in a chair or standing during

this period?

A I was sitting on a couch, the couch was adjacent to an inner wall in the house.

Q And was agent Sheets there with you?

A Yes, sir, he was.

Q And he, was he sitting on the couch?

A No, sir, he was sitting in a chair across the room from me.

Q And Tom Parks was sitting on a couch or in a chair?

A He was in a chair in another part of the room.

Q And was Mattie Mix in the room at all?

A Yes, she was in the room.

Q And where was she?

A She was sitting on the same couch that I was on.

Q Is this the occasion when she was--, Mattie Mix was told that she was just lying about some matters, or was this some other occasion?

A I don't recall of any statement that she was just lying about anything.

Q Do you recall any agent or yourself stating to Mattie Mix that she was lying about some phone calls that had been made?

A No, I don't, I don't recall that statement, any such statement.

Q Was a statement of similar import made on this occasion in Mattie Mix's residence by you or Mr. Sheets?

A Well, we were questioning Mrs. Mix about some telephone calls and we could not understand that she couldn't remember them.

Q Were you ordered out of the house?

A No, sir.

Q Now, this was December the 12th, 1962.

A Yes, sir.

Q And on this occasion you, Mattie Mix, Tom Parks, and Mr. Sheets were in the living room of the Mattie Mix residence.

A Yes, sir.

Q Now, Mr. Norwood, I want you to think back just to December the 12th, 1962, and ask you if the matters you have not testified about and contained in this, contained in this statement of December the 12th was not made at the cleaners and that you, Sheet and Mr. Parks was inside a cleaning establishment in Nashville and the temperature was remarkably 140 degrees inside? I recall you had more than one conversation.

A I am not clear on your question, sir.

Q I beg your pardon?

A I am not clear on your question.

Q I am asking you if the matters that you testified

about in the direct examination that you state Parks said.

A Uh-hmm.

Q Did not occur at the cleaners, at a cleaning establishment and not at the Mattie Mix residence.

A No. The information that I testified to took place at Mrs.Mix's residence.

Q All right. Now, when did you--, how many times did you and Agent Sheets interview Tom Parks?

A Twice.

Q Did you make a written report of each of those?

A Yes, sir.

Q Whenwas December the 12th interview, the other was December 17th interview.

A That is correct.

Q And you state now which one was made at the clearing establishment being run by Tom Mix.

A The second interview was at a cleaning establishment where he was employed.

End 5A

Tk 6 fol.

Q How many interviews did you state you had with Parks?

A Two.

Q Now, just for the purpose of looking at a report dated December 28, I will ask you if that is not the interview that you referred to in the Mattie Mix residence and if it was not the second interview when this matter you now testify about occurred?

MR. NEAL: Your Honor, I suggest to show him both interviews.

MR. BRANSTETTER: May it please the Court, I will show him.

THE WITNESS: This is a report on an interview with Mrs. Mix.

BY MR. BRANSTETTER:

Q Yes, sir.

A Not an interview with Mr. Parks.

Q That is when Parks was present at the Mattie Mix residence on December 28th? The report was made out?

A This interview is on December 17th. The interview I testified to was on December 12th at Mrs. Mix's residence.

Q So, you were at Mrs. Mix's residence then and interviewed Parks on two occasions at the Mix residence, is that what you are saying now?

A No, sir, I interviewed Mr. Parks on one occasion at Mrs. Mix's residence.

Q Yes.

A The second--

Q (Interposing) What date was that that you interviewed him at Mrs. Mix's residence?

A On December 12.

Q December 12?

A Yes, sir.

Q Now, what date were you at the Mix residence according to this report?

A December 17.

Q December 17. Tom Parks was present on the 17th at the Mix residence?

A No, sir.

Q No one was there but Mattie Mix?

A And Mr. Sheets and myself.

Q And Parks was not present?

A That's correct.

Q What time of day was that report, that interview?

A I don't recall the time of day. It was during the daylight hours.

Q Now, when you make a report such as the one dated December 18, of an interview on December 12, do you make a note as to the persons present during such interview?

A It depends. If we feel it is significant at the time we would.

Q Was it significant at the time on December 12th that interview was at the Mattie Mix residence, Mattie Mix's presence, Tom Parks present, and you and Mr. Sheets was present?

A What interview was this?

Q December the 12th.

A Well, there were only four people present. It was easy to remember who was there at the time.

Q Did you make that in your report?

A I don't recall whether that report was specifically naming the persons that was there.

Q It is your practice to name the persons present during the taking of any statement, is it not?

MR. NEAL: He was asked and answered that, your Honor.

THE WITNESS: Sometimes it is put in and sometimes it isn't.

BY MR. BRANSTETTER:

Q Who made the notes on this occasion, December 12?

A Mr. Sheets.

Q Did you see his original notes?

A No, I don't recall ever looking at his original notes.

Q So you, what did you see, the typed report?

A I saw the interview report form after it had been typed up.

Q Now, I believe that on this occasion Parks told you that he had seen Larry Campbell in Nashville, Tennessee, in 1961, two years before this report, when he was on his way to driving a truck to West Tennessee, a little over one year?

A I don't recall testifying to that.

Q No. I am asking you if he stated to you that he had seen him.

A He drove a truck to West Tennessee? I recall that he stated that he had not seen or talked to Parks for two years. Now, I don't recall the specific circumstances.

Q Did he say about two years?

THE COURT: You said Parks?

THE WITNESS: Parks stated that he had not seen Campbell for approximately two years.

BY MR. BRANSTETTER:

Q And he had been in Nashville on that occasion, came through Nashville?

A I don't recall the specific circumstances of his seeing him.

Q He told you on that occasion that he had had some relatives die in Louisville, Kentucky, in November, 1962?

A Yes, there was some discussion about a relative in Louisville, Kentucky, dying.

Q He also told you that he had made some phone calls to Louisville, Kentucky, to both a funeral home and to a Park Lee Davison's residence in Louisville, Kentucky?

A Yes, he told us.

Q During November, 1962?

A Yes, in connection with the funeral.

Q He also told you on this occasion that his sister, Park's sister, had died in Detroit, Michigan, in 1943 and that he had a sister there in a mental institution?

A Well, now, at this point I recall that there was some discussion about the family connections and that Campbell was a nephew of Mr. Parks and I believe that he told us that Campbell's mother had been his sister. And I don't recall all of the various family ties that were discussed.

Q Told you that a sister who died in Detroit, Michigan, her name was Laura, on this occasion? Do you recall that?

A I don't recall it at this time.

Q But you do recall the discussion of his sister being in Michigan and dying? Tom Parks' sister?

A I don't remember the discussion of her death. I remember that there was a discussion of a family connection.

Q And there was a discussion of the family

connection insofar as Louisville, Kentucky, was concerned, Louisville, Kentucky, as to deaths, funeral home, and residences of some of those relatives?

A That's correct.

THE COURT: Ladies and gentlemen, you will observe the same instructions as I gave you with regard to the previous witness' testimony, namely, that this testimony may be considered by the jury only as to the Defendant Parks, and not as to any other defendant. It may be considered as to the Defendant Parks only as it may or may not tend to impeach the said Defendant Parks or as it may or may not tend to evidence any guilty consciousness on the part of the said Defendant Parks.

MR. SCHIFFER: Your Honor, I just want to have an opportunity to read this report and I wonder if I may let Mr. Berke go ahead of me.

THE COURT: All right.

End Tk 6
Tk 6A fls.

BY MR. BERKE:

Q Mr. Norwood, Mr. Sheets happens to be an excellent shorthand notetaker, doesn't he?

A Mr. Sheets can take shorthand, yes, sir.

Q As a matter of fact, he did take shorthand notes of this conversation?

A I don't know. I didn't look at his original notes.

Q Well, you were there at the conference, weren't you?

A I was there, yes, sir.

Q And do you mean--, you know you didn't take notes.

A Thatis right. I didn't take notes.

Q Well, now, isn't it the practice of the FBI to take notes when you are having a conference?

A Mr. Sheets was taking the notes.

Q All right, so you, you do know that Mr. Sheets was taking notes.

A That's correct.

Q Now, Mr. Norwood, did Mr. Sheets ever transcribe those notes verbatim for you to examine?

A Mr. Sheets used his notes and dictated an interview report form which I--

Q (Interposing) Mr. Norwood, I didn't ask you that question. I said, did Mr. Sheets transcribe his shorthand notes that he took and let you see the transcription of his

notes.

A No, sir.

Q Now, did you then have any opportunity to compare his notes or transcription of his notes with his interpretation of what he says took place there?

A Well, I didn't see anyverbatim transcription and I testified that what I did see was the interview report form.

Q Now, Mr. Norwood, you were working right along with Mr. Sheets, why didn't you just make a verbatim transcription on that and adopt that as your report?

A I felt it was sufficient for Mr. Sheets to do that.

Q So actually that was Mr. Sheets' report, wasn't it?

A Which I reviewed and what was in there was correct to my memory.

Q You work under Mr. Sheets, do you not?

A No, sir.

Q Well, do you work out of the same office?

A We work out of the same office, yes, sir.

Q You are both agents.

A That's correct.

Q Now, did you ask Mr. Sheets to read over his notes in your presence?

A No, sir.

Q You didn't know that?

A No, sir.

Q Do you have any reason to believe that Mr. Sheets' original notes would not be accurate, that he knows how to take shorthand?

A I have no reason to believe that they would not be accurate.

Q In fact, you know they would be accurate, wouldn't they?

A As accurate as humanly possible, yes.

Q As accurate as this gentleman sitting here making notes right now?

A I would assume so.

MR. BERKE: All right.

THE COURT: All right. If nothing further --

REDIRECT EXAMINATION

BY MR. NEAL:

Q Mr. Norwood, you said you didn't see his original notes but you saw his report?

A Yes.

Q The interview sheet?

A The interview report form, yes.

Q Of what the Defendant Parks said. Was that an accurate report of what you heard during the conference?

A Yes, sir.

Q You didn't know that?
A No, sir.
Q Do you have any reason to believe that Mr. Sheets' original notes would not be accurate, that he knows how to take shorthand?
A I have no reason to believe that they would not be accurate.
Q In fact, you know they would be accurate, wouldn't they?
A As accurate as humanly possible, yes.
Q As accurate as this gentleman sitting here making notes right now?
A I would assume so.

MR. BERKE: All right.

THE COURT: All right. If nothing further --

REDIRECT EXAMINATION

BY MR. NEAL:

Q Mr. Norwood, you said you didn't see his original notes but you saw his report?
A Yes.
Q The interview sheet?
A The interview report form, yes.
Q Of what the Defendant Parks said. Was that an accurate report of what you heard during the conference?
A Yes, sir.

Q During the interview with Mr. Parks?

A That was an accurate recording of what I heard at that time.

THE COURT: All right. If there is nothing further, he may be excused.

MR. NEAL: Excuse me just a moment.

THE COURT: Just a moment, sir. All right. You may be excused.

(Witness excused.)

MR. HOOKER: Call Victor Bussie.

MR. BRANSTETTER: May it please the Court, for the record we would move that the testimony of the last two witnesses be stricken on the basis that they did not produce their original notes or comply with the Jencks Act in that respect.

THE COURT: Overrule that motion or objection.

MR. SCHIFFER: May we have that on behalf of all defendants, your Honor?

THE COURT: Yes, sir, and overruled as to all defendants.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. BUSSIE: I do.

MR. DALE: Have a seat, sir.

MR. BERKE: If your Honor please, I think this will present a legal question. We would like to address the Court on this matter.

THE COURT: All right. Ladies and gentlemen, it will be necessary that you step out a few moments.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. BERKE: If your Honor please, I suggest that they might first ask the witness what they intend to prove by him.

MR. HOOKER: I want to prove by this witness and five others the general reputation and character of the witness Edward G. Partin.

MR. BERKE: All right, your Honor. Just let the jury come in.

THE COURT: All right. See if the jury is ready to return.

MR. BERKE: I understand the Court has a limit.

THE COURT: Three.

MR. HOOKER: If your Honor please, you allowed them six.

MR. SCHIFFER: Six defendants.

MR. ALEXANDER: There are six defendants.

THE COURT: I think it should be limited to three.

MR. HOOKER: Sir?

THE COURT: I think we should limit it to three.

MR. HOOKER: Should be limited to three?

THE COURT: Yes, sir.

(Thereupon, the jury of 12 and 4 alternates returned into open court when the following further proceedings were had and evidence introduced, to-wit:)

VICTOR BUSSIE,

a witness called at the instance of the United States of America in rebuttal, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOOKER:

Q Will you state your full name, please, sir?

A Victor Bussie.

Q What is your business, Mr. Bussie?

A President of the Louisiana AF of L-CIO.

Q How long have you held that position?

A Since 1956.

Q Where is your principal office?

A Baton Rouge, Louisiana.

End 7
fls

Q Do you have offices at any other points in Louisiana?

A Shreveport and New Orleans.

Q What civic organizations are you connected with?

A A great number of them, sir. I am a member of the board of directors of the Red Cross, the YMCA, the United Fund, Speech and Hearing Foundation, Louisiana Mental Association, a great number of others.

Q Have you served on any committees of the state?

A Yes, sir, a number of those. I served on the Governor's Parolee Rehabilitation Committee, the Governor's Education Committee, the Advisory Council for Employment Security and a number of others.

Q How long have you known Edward G. Partin?

A Since 1956.

Q What had been your associations with him in that period of time?

A In the main it has been strictly with the question of labor matters of various types. I did have one social contact with Mr. Partin in 1957, I visited his home briefly for a few minutes.

Q What have been your associations with him in the labor field?

A Mr. Partin is business agent.

MR. GRADY: I object to this--

A (Interposing) Teamsters Union.

MR. GRADY: It's his general reputation in the community.

THE COURT: Overrule the objection.

MR. BRANSTETTER: I'm sorry, I didn't understand the objection.

MR. GRADY: It's his general reputation in the community and if he knows it.

BY MR. HOOKER:

Q Have you attended any labor meetings with him?

MR. BRANSTETTER: May it please the Court, in order that the record will be clear, I think that if this witness is produced for the purpose stated that there is only three questions that can be asked of the witness, if he knows, if he knows his reputation, knowing that reputation would he give him credit on direct examination. Now, cross is unlimited.

MR. HOOKER: I have a right to show what his opportunities for knowing him were.

THE COURT: Overruled.

BY MR. HOOKER:

Q Have you attended any labor meetings with him?

A Yes, a great number since 1956.

Q And during this period that you have known him state whether or not you have seen him frequently.

A Yes, sir, I have, sir.

Q Mr. Bussie, do you know, think you know the general reputation and character of Edward G. Partin in the community in which he lives for truth and veracity?

A I know his reputation so far as the dealings that I have had with him in the trade union movement, yes.

Q For truth and veracity?

A Yes, sir.

MR. SCHIFFER: Objected to, Your Honor, improper.

BY MR. HOOKER:

Q Is it good or bad?

A Been extremely good, sir.

MR. SILETS: Your Honor, I don't think he has laid the proper foundation, has he?

THE COURT: Overrulethe objection.

MR. SILETS: May the answer be stricken, Your Honor? I don't think he has laid the proper foundation.

THE COURT: Overruled.

MR. HOOKER: They objected to me laying the foundation and now they object because I haven't laid a foundation.

MR. SCHIFFER: I move his remarks be stricken, that is not true.

THE COURT: All right. Let's proceed.

BY MR. HOOKER:

Q Is it good or bad?

A Extremely good, sir.

Q From it is he entitled to full faith and credit on his oath in a court of justice?

A I'm sorry, I didn't understand.

Q I say, from it is he entitled to full faith and credit on his oath in a court of justice, entitled to be believed?

A To the best of my knowledge, he would be, yes.

MR. HOOKER: That's all.

CROSS EXAMINATION

BY MR. BERKE:

Q Now, how long did you say you have known Mr. Partin?

A Since 1956.

Q Did you know that Mr. Partin had been involved in a number of serious offenses?

A I know I read in the paper that he was accused of being involved, sir, I have no personal knowledge of any of it.

Q I see. Did you know that he has served time in the reformatory or penitentiary?

A I read the statement in the newspaper, sir, that is the only information I have regarding it, sir.

Q Now, let's see, Mr. Bussie, you write editorials, do you not?

A The editorials of what, sir?

Q Well, any editorials. Have you written any editorials against Mr. Hoffa?

A Not to my knowledge, no, sir.

Q Have you written any articles against Mr. Hoffa?

A Not to my knowledge, no, sir.

Q Did you make any public releases or statements against Mr. Hoffa?

A Oh, yes, yes, I have made public statements against Mr. Hoffa.

Q And you have made them to the press?

A Yes, sir.

Q And you have made numerous statements against him.

A Yes, sir.

Q Have you also made statements against Mr. Partin in the press?

A Yes, sir.

Q Now, you made statements against Mr. Partin in the press, yet you are willing to come up here and testify for the government that you would believe Mr. Partin on oath.

A The question which was asked me, sir, was did I believe Mr. Partin would be truthful; I said I did believe it. The statements I made about Mr. Partin and Mr. Hoffa was in a conflict of union jurisdiction.

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Q Did you know, sir, that Mr. Partin on March 4, 1941, had been arrested for some burglary charge?

A I had no personal knowledge of any record Mr. Partin had so far as activities that are in violation of the law.

Q Did you know that on August 21, 1941, he had been picked up for vagrancy while he was in the Marine Corps?

A I had no knowledge of it, sir. I didn't know Mr. Partin at the time, sir.

Q Did you know that Mr. Partin in order to get out of a burglary charge joined the Marine Corps?

A I have no knowledge of it, sir.

Q Did you know that after Mr. Partin got into the Marines he got into it again for burglary?

A I have no knowledge of that, sir.

Q Did you know then that on September 1, 1941, in Roseburg, Oregon, in Case No. 5354, he was arrested for robbery and auto theft?

A I have no knowledge of it, sir.

Q You didn't know that was part of his reputation?

A No, sir.

Q Did you know then that when he went back to Louisiana on May 7, 1942, he got into it for larceny?

A I have no knowledge of it, sir.

Q Did you know then again that on December 19, 1942,

he got into it again for larceny?

A I have no knowledge of it, sir.

Q Did you know then again on March 11, 1943, in Baton Rouge, Louisiana, in South -- in Baton Rouge, Louisiana, Edward G. Partin, in Case No. 17851, was again picked up for a theft?

A I have no knowledge of it.

Q All right, sir. Did you know then that in Monroe, Washington, Ed Partin on January 10, 1944, got into it for second-degree burglary and was given a 15-year sentence for burglary?

A I have no knowledge of that, sir.

THE COURT: Ladies and gentlemen of the jury, of course you will not consider the statements of counsel as evidence of any matters in the case.

BY MR. BERKE:

Q All right, did you know then that in that burglary case he escaped after he was sentenced?

A I have no knowledge of that, sir.

Q All right. Did you know that on May 8, 1948, that in Woodville, Mississippi --

THE COURT: Now, gentlemen, let's do not go into areas in which there is no basis whatsoever in the record.

MR. BERKE: If your Honor please, we now contend for the record that when they open up the question of character --

THE COURT: Mr. Berke, you are not going to be permitted to go into matters and make statements to the Court for which there is no basis in the record. This is not proper cross examination.

MR. BERKE: I have basis for it, your Honor.

MR. REDDY: That is no basis in this regard.

MR. SCHIFFER: He admitted in the record.

MR. REDDY: No, sir, he denied it.

THE COURT: Sustain the objection. We are not going into matters for which there is no basis. Proceed.

MR. BRANSTETTER: May it please the Court, if this is the ruling that affects other counsel, I would like to raise this one point; when a witness is put on the stand to testify as to the general reputation of a witness who has previously appeared, Partin, then he can be asked under all rules of evidence that I know of of any specific acts, whether it has ever been mentioned in any report, present or past.

THE COURT: Well, proceed.

BY MR. BERKE:

Q You have read all these things in the newspapers?

MR. HOOKER: We object to that.

THE COURT: Sustained.

MR. BERKE: Just a minute.

BY MR. BERKE:

Q That is what the neighborhood, the papers, the

place where he lives, all that, what they say about Ed Partin, is it not?

A May I answer the question, your Honor?

THE COURT: Yes, sir.

THE WITNESS: Yes, I have read it. I have read statements concerning Mr. Hoffa of the same caliber, sir, same type of thing.

BY MR. BERKE:

Q I'm asking you about Mr. Partin.

A Well, I'm answering your question.

Q Will you answer my question, sir, about Mr. Partin, that is what you are here to testify about?

A I said yes. I said yes. And I have read statements concerning other people but that doesn't necessarily mean to me --

Q (Interposing) Just a minute.

A I'm answering your question, sir.

Q You weren't asked any questions about Mr. Hoffa, were you, as far as character and reputation is concerned, were you?

A I was asked about --

Q (Interposing) Answer that question.

MR. HOOKER: Well, let the witness answer.

THE WITNESS: I was asked about reading statements in the newspaper.

BY MR. BERKE:

Q Just a minute.

A The newspaper, which I answered that I read those statements.

Q Just a moment. When I'm addressing the Court.

MR. HOOKER: We submit the witness has got a right to finish his answer.

MR. BERKE: If your Honor please, this is getting into an area that is not proper.

THE COURT: Well, proceed.

MR. BRANSTETTER: May it please the Court, on behalf of the Defendant Campbell I move for a mistrial. There is not a rule of evidence in any book that says a character witness can testify to anything other than specific instances on cross examination as to misconduct of the person he has testified about on direct, not somebody else. I move for a mistrial as to the spilling out --

THE COURT: (Interposing) Allow it to stand as to all defendants and overrule it.

MR. BROWN: Applies to all defendants.

MR. BERKE: I think this Court as it has in many cases where defendants have introduced witnesses can instruct this witness to answer directly to the questions, and we ask now that the Court do that.

THE COURT: Listen carefully to the question.

Respond to the question asked.

THE WITNESS: Your Honor, I was merely trying to --

THE COURT: (Interposing) That is all right.

BY MR. BERKE:

Q Just respond to the question, sir.

A May I finish answering the question you asked?

Q I haven't asked you a question yet.

MR. HOOKER: If he wants to finish an answer he started, he may do so.

MR. BERKE: If your Honor please --

THE COURT: (Interposing) Well, state a question. Let's move along.

BY MR. BERKE:

Q You say you have known him how long now?

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A Since 1956.

Q Did you know just about the end of 1955, December 2, 1955, that Mr. Collatto, I mean, Mr. Partin, was convicted for an assault and battery on Mr. A. J. Collatto and he pled guilty?

A I have no knowledge of that, sir.

Q All right. Did you know, sir, that on October 24, 1961, that Mr. Partin was indicted for forgery and that that case is still pending?

A I read it in the newspaper. That is the only information I have of it, sir.

Q Did you know that on May 2, 1962, Mr. Partin was indicted for kidnapping?

A I read that in the newspaper, sir.

MR. HOOKER: We object to that. It has already been shown that that case was dismissed.

MR. BERKE: If your Honor please, I have got a right to question--

THE COURT: (Interposing) Proceed. Proceed.

MR. HOOKER: We objected to it in the beginning.

BY MR. BERKE:

Q Did you know that in January, 1963, he was indicted for perjury?

MR. HOOKER: We object to that. It has been shown that that case was dismissed.

MR. BERKE: If your Honor please, just a minute--

THE COURT: (Interposing) He can answer if he knows.

BY MR. BERKE:

Q Did you know that he was indicted for perjury?

A I read that in the newspaper, sir. I have no personal knowledge of it.

Q And didn't you know also that he is under investigation for smuggling arms to Cuba?

MR. HOOKER: We object to that.

THE COURT: Mr. Berke, there is absolutely no basis in the record for that.

MR. BERKE: Yes, it is, your Honor, I can show it to your Honor.

THE COURT: Mr. Berke, just a moment. There is absolutely no basis in the record for that and the Court has instructed you upon previous occasions you will disregard that.

MR. BERKE: I can cite the record.

MR. HOOKER: We ask your Honor to instruct the jury to disregard this. This has happened now several times.

THE COURT: Yes, sir, disregard that, ladies and gentlemen of the jury. Counsel will not just willfully disobey the orders and instructions of the Court.

MR. BERKE: Your Honor, I am trying to state to the Court that it is not willful. I am trying to point out

the record.

THE COURT: Proceed, Mr. Berke. Stay in accordance with the Court's instructions.

MR. SCHIFFER: On behalf of the Defendant Parks, your Honor, may I have an opportunity to point out that point in the record, your Honor?

THE COURT: Sir, just proceed.

MR. SCHIFFER: I offer an objection. I move for a mistrial that the Court is now indicating to the defendants all of them may be prejudiced before this jury as to a very salient point connected with the Witness Partin. Now, we want an opportunity to show to your Honor that it is in this record.

THE COURT: Sir, sir, sir. Just have a seat, sir, Mr. Schiffer.

MR. SCHIFFER: May we have a ruling on the motion?

THE COURT: The Court has a responsibility to keep this lawsuit within the issues of the lawsuit. I am trying to do the best I can in that respect and when I give instructions to counsel in that respect, I expect counsel to follow those instructions. Let's proceed.

MR. SCHIFFER: May we not have the opportunity, your Honor, to point out in the record?

THE COURT: Yes, you will have an appropriate opportunity to do that, sir.

MR. SCHIFFER: Thank you, sir.

MR. BERKE: If your Honor please, I have a number of questions about this man's activities and I don't want to be in position--

THE COURT: (Interposing) Proceed to some matter that is material, but do not go into matters that the Court has heretofore ruled out time and again. Let's not be bringing them up.

MR. BERKE: Excuse me, your Honor.

BY MR. BERKE:

Q Did you know as part of his reputation that he is a dope addict?

MR. HOOKER: We object to that.

THE COURT: Overruled.

THE WITNESS: I read in the paper where testimony was given in this court that he was such. I have no personal knowledge of it, sir.

MR. HOOKER: That is good. That is good.

BY MR. BERKE:

Q Did you know, sir, that when the question of misappropriation of union funds came into play that Mr. Partin staged a false robbery of his safe? Did you know that as part of his reputation?

MR. HOOKER: We object to that.

MR. BERKE: Destroyed records?

MR. HOOKER: Not a line of that in this record.

MR. REDDY: No proof at all, may it please the Court.

THE COURT: Sustain the objection.

End Tk 8A
Tk 9 fls.

BY MR. BERKE:

Q Did you know that it was part of his reputation that he had a bad conduct discharge from the United States Marine Corps?

A I have no knowledge of that and I have never heard of it before, sir.

Q Now, if you had known all of these things that I talked to you about you would still give Mr. Partin an excellent reputation, wouldn't you, sir?

A I did not testify that Mr. Partin had an excellent reputation. I said Mr. Partin had been completely truthful with me and the people that I represent in the meetings that we held. That was my testimony, sir, and that was the question which was asked me by the counsel for the government.

Q So it was limited to the meetings that you had with Mr. Partin?

A It's the only knowledge that I have of Mr. Partin. I said that I had had one social contact briefly for about ten minutes but since 1956 in attendance in a great number of meetings with Mr. Partin, all of which were labor meetings, Mr. Partin's word had been good, been accepted by us and had been proven to be good.

Q Well, did you ever discuss his character and reputation with the people that knew him and knew about all of his troubles that he had been in, his friends and his

neighbors?

A No, sir.

Q You had not discussed it with his friends and his neighbors then?

A No, sir, and I am not testifying as to Mr. Parks' general character, sir, but I am testifying as to his truthfulness in dealing--

MR. BERKE: (Interposing) If Your Honor please, if that is true then we move to strike his testimony insofar as his testimony about the character and reputation of Mr. Partin for truth and veracity in the community in which he lives.

THE COURT: Overrule that motion.

BY MR. BERKE:

Q How many business meetings have you had with him?

A I would say since 1956 in the neighborhood from 35 to 50, I have no way of knowing exactly how many, but it was a great number of them.

Q In other words, except for those business meetings and one social contact, you have not discussed his character and reputation with any of his friends or neighbors in the community.

A No, sir, not to my knowledge, I haveheard no discussion of it.

Q How many articles have you or press releases have

you made into the papers against Mr. Hoffa?

MR. REDDY: Now, may it please the Court, he has been over that.

THE COURT: Overruled.

MR. REDDY: Once or twice.

THE COURT: Overruled.

BY MR. BERKE:

Q In your opinion.

A I have no way of knowing exactly how many. Whenever the press asked a question during the time that we were in conflict with Mr. Hoffa on union organization then, of course, I answered the press. I don't know exactly how many times I was asked the question, maybe half a dozen or so, I am not sure.

End 9
Ik 9A fol.

Q And you had a very bitter dispute with Mr. Hoffa over the organizational campaign for the Esso Company, didn't you?

A Yes, sir.

Q It was--,

A Let me answer the question, it was not a personal dispute with Mr. Hoffa, it was simply over a question of union organization.

Q And you had made numerous derogatory remarks about Mr. Partin in those press releases, too, did you not?

A On the question of union organization, yes.

MR. BERKE: All right, Your Honor. Of course, we still would like to have the offer of proof on these matters that the court has ruled upon, Your Honor.

THE COURT: The Court has ruled. Ladies and gentlemen, you will not consider the argument of counsel in these matters or any statements of the Court in connection with the instructions to counsel on these matters.

EXAMINATION

BY MR. BRANSTETTER:

Q I believe you stated that you had seen and read, discussed and heard, various remarks about the previous conduct of Mr. Partin.

A I did not say I discussed and heard previous things about Mr. Partin. I said I had read most of them in the newspaper. Some of the things which were mentioned here I have never even read in the newspaper but some of them I have read in the newspaper.

Q Could I hand you up a photo copy of a newspaper clipping and ask you if you have read some of the matters? Just look at them without saying. I believe you stated you had read about the kidnapping.

MR. HOOKER: We object to that.

THE WITNESS: May I answer, Your Honor?

THE COURT: Yes.

BY MR. BRANSTETTER:

Q Yes.

A Yes, I have read about--

Q (Interposing) Did you look at the article and picture there and see if that is the matter that you talked about with reference to the kidnapping; is this some of the material you read about the kidnapping that you are now looking at?

A I believe so, I have no way of knowing.

MR. BRANSTETTER: May we have this marked for identification?

THE COURT: All right.

MR. DALE: 236.

(The photostatic copy of the newspaper page referred to above was marked Def. Campbell Ex. No. 236 for identification only.)

MR. BRANSTETTER: We would like to introduce this in evidence, if Your Honor please.

MR. HOOKER: Of course, we object to that. As counsel knows, no such thing as that would be admissible.

THE COURT: Sustain the objection.

MR. HOOKER: In a trial.

MR. BRANSTETTER: We would just like to introduce it in evidence, he said it's what he read and bases his opinion on.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q I want to ask you, sir, if you have heard of these matters that I will ask you about with reference to Mr. Partin. Have you heard that Mr. Partin was indicted for mishandling, misuing, misappropriating the funds of the local union on numerous occasions?

A I read it in the newspaper where he was accused of that.

Q Have you heard that he was charged also, that the records and property of the union are constantly being stolen or being missing whereby Mr. Partin's actions could not be ascertained?

MR. HOOKER: We object to that. Been no proof of it.

THE COURT: Well, ladies and gentlemen, disregard statements of counsel, they are not evidence in the record. Allow the witness to answer as to what he knows.

A I have not heard.

MR. BRANSTETTER: I certainly want to go according to the Court's ruling but specifically--

THE COURT: (Interposing) I have allowed him to answer.

MR. BRANSTETTER: Thank you, Your Honor.

A I have not heard nor have I read the statement which you just gave, sir.

Q Have you heard that Mr. Partin wascharged with

converting to his own use monies and properties in the sum of $100,000.00 from the union?

A No, sir, I have not heard or read that.

MR. HOOKER: We object to that on the ground there is absolutely no evidence of it.

THE COURT: Sustained.

MR. BRANSTETTER: Could I read about four lines from a United States Supreme Court case? I don't intend to argue to the Court.

THE COURT: No, sir.

MR. BRANSTETTER: It says when--

THE COURT: (Interposing) Hand the report to the Court. Proceed.

BY MR. BRANSTETTER:

Q Have you heard that Mr. Partin issued checks payable to Donald Partin for matters not connected with the union or for proper payments to him?

MR. HOOKER: We object to that, if Your Honor please, wholly without any evidence and talk about some other Partin now.

MR. BRANSTETTER: His brother.

MR. HOOKER: About Donald Partin.

THE COURT: He may answer whether he has heard.

A I have not heard nor read about it, sir.

Q Have you heard that Partin was charged with

misappropriating, destroying, disposing, of illegally alienating and selling a 1962 Oldsmobile sports sedan that belonged to the union?

MR. HOOKER: We object to that as being utterly no evidence of it.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q Have you heard that he--

MR. HOOKER: (Interposing) Just a moment. Of course, if Your Honor please, we submit it's highly prejudical for a lawyer just to stand here and ask question after question about things which there is not any semblance of proof at all.

MR. BERKE: If Your Honor please, but there is a basis and we have the proof, if he wants to see it.

MR. BRANSTETTER: The basis is in the record if he wants to go into it.

THE COURT: Well, the basis is not in the record. Let's proceed, gentlemen.

MR. BRANSTETTER: Well, may it please the Court, and I don't think--, I think we can clarify the matter because we can speed through it, when a person presents--

THE COURT: (Interposing) Well, gentlemen, let's proceed.

MR. BRANSTETTER: All right.

THE COURT: And you will disregard, ladies and gentlemen, the statements of counsel, however, which is not evidence, would not be considered by you as evidence, the matters which he states in that respect. Proceed.

MR. BRANSTETTER: If it please the Court, I was reading from the indictment that has been introduced.

THE COURT: Let's proceed, Mr. Branstetter.

BY MR. BRANSTETTER:

Q Have you heard that he has misused union funds by making personal telephone calls, paying motel bills and other matters not related to union business?

MR. HOOKER: Object to that as being no semblance of proof in the record.

THE COURT: He can state whether he has heard it.

A I have heard that Mr. Partin, or, rather, read that Mr. Partin was indicted for misappropriation of union funds. I do not know what that indictment covered so far as which funds or what they were spent for.

Q Have you heard that he was charged with taking disciplinary action against union members without proper notice and hearing in violation of federal statute?

A I read in the paper where he had issued withdrawal cards to some members which was being contested as illegal and contrary to the union rules and regulations.

Q Well, now, I'm going to shorten this, Mr. Witness, just a little.

A All right, sir.

Q And hand you up 14 pages, single spaced, 14 pages of incidents and ask you to look at all of them, just read through them, and see if you have heard of the instances there mentioned, 14 pages, single spaced.

MR. HOOKER: If your Honor please, I submit this is ridiculous.

MR. BRANSTETTER: Trying to shorten it. I have a perfect right to do it.

MR. HOOKER: We object to it as being utterly ridiculous.

MR. BERKE: No more ridiculous than you putting this witness on for that purpose. That gives us a right to go into it under the law and under the authorities.

THE WITNESS: Shall I answer?

THE COURT: You may.

BY MR. BRANSTETTER:

Q I would like for you to look through them.

A Would you like for me to comment on them?

Q I don't want you to comment.

MR. HOOKER: We submit he can answer it any way he wants to. If it takes the rest of the morning. Fourteen pages of it.

THE WITNESS: I'm merely asking do you want me to answer on each one individually?

THE COURT: Just look over it.

BY MR. BRANSTETTER:

Q Look over it and I ask you if you have heard of the instances mentioned in these 14 pages? You can say those that you have and those that you have not.

MR. HOOKER: I don't know about the witness, but I would need a recess to do that, if your Honor please. Fourteen pages of stuff there.

MR. BERKE: You read them.

BY MR. BRANSTETTER:

Q I will be pleased to read every one to this witness and take that time.

THE COURT: I will not permit you to do that. The Court certainly has some discretion in this type of proceeding.

THE WITNESS: The item mentioned November 8, 1961, I read in the paper.

The item mentioned November 18, 1961, I have not heard of.

Item November 19, 1961, I read in the paper.

THE COURT: Well, now, gentlemen, we are not going to interrupt the trial for this sort of proceedings. You may file that.

MR. BRANSTETTER: I will be very happy, may it please the Court, for this witness to identify this and pass it to the jury and save all this time.

THE COURT: You may file it for identification if you wish to. It will not be introduced into evidence.

MR. BRANSTETTER: We would like to have it filed for identification.

THE COURT: All right.

THE CLERK: No. 237.

(The 14-page document referred to above was marked for identification as Exhibit No. 237.)

MR. BRANSTETTER: May I have this one, this one has some markings on it. I would like to ask counsel if I may substitute a clean one?

MR. HOOKER: That is all right.

THE CLERK: You want to mark it now?

MR. BRANSTETTER: We will furnish it to you.

THE CLERK: All right.

BY MR. BRANSTETTER:

Q Could I ask you this, then, do you know Mr. Partin's reputation in the community in which he lives for truth and veracity?

A I stated that I knew his reputation.

Q Could you answer?

MR. HOOKER: Let the witness answer.

THE WITNESS: I stated that I knew his reputation among the people.

MR. BRANSTETTER: I object. I asked him a question, may it please the Court.

BY MR. BRANSTETTER:

Q Do you know Mr. Partin?

A Your Honor, I cannot say that any man's reputation in the community as a whole is good or bad. I can only state the experience I have had and the people that I know personally have told me they have had. I'm in no position to testify as to the attorney's reputation in the community, I don't know that, or Mr. Partin's testimony among other people.

MR. BRANSTETTER: I move to strike his testimony. I want to ask you one question.

THE COURT: Overruled.

BY MR. BRANSTETTER:

Q Do you know Mr. Partin's reputation in the community in which he lives as far as truth and veracity is concerned?

A I thought I had answered that question.

Q Well, do you? Just yes or no? Simple, either you know it or not.

A I do not know his reputation.

MR. BRANSTETTER: Thank you. That is all.

THE WITNESS: May I finish answering the question?

THE COURT: Yes, sir.

THE WITNESS: I do not know his reputation so far as the community as a whole is involved. I know his reputation among the people that I work with and live with and do business with.

MR. BRANSTETTER: We move to strike the last part, not responsive to the question.

THE COURT: Overruled.

MR. BRANSTETTER: And further move to strike this witness' total testimony on the basis that in order for a character witness to testify he must first say that he knows the person he is seeking to support. He must state that he knows his reputation for truth and veracity in the community. And knowing that reputation for truth and veracity he would or would not believe him on his oath. Those are the only questions permitted on direct.

THE COURT: Overruled.

MR. BROWN: May we object for all defendants?

THE COURT: Overrule the objection.

MR. BROWN: If your Honor please, while I am on my feet, the Defendant King takes exception to the matters on cross examination.

MR. SILETS: Is your Honor going to take a recess?

THE COURT: Let's proceed.

MR. SILETS: May it please the Court, Mr. Hooker has made objections on the basis we have no proof. I call upon the government for the FBI File No. 2249716, being the file on record of Edward Grady Partin.

THE COURT: Let's proceed, gentlemen.

MR. SILETS: Your Honor, I'm asking the Court to require the government to turn over --

THE COURT: (Interposing) I overrule that. Proceed.

MR. SILETS: I have a copy of his FBI report here.

THE COURT: Proceed. If you have any questions that haven't already been covered.

CROSS EXAMINATION

BY MR. SILETS:

Q Sir, have you heard of an arrest of Edward Grady Partin on May 8, 1948, in Woodville, Mississippi?

MR. HOOKER: We object to that.

THE COURT: Sustained.

MR. SILETS: Your Honor, in light of that, I feel that the Court is going to restrict my cross examination because of the basis of this kind of testimony is to test his knowledge of his reputation and his arrests, his misdemeanors and his felonies and his bad character. I feel that I cannot go any further.

THE COURT: All right.

MR. SCHIFFER: That will be the position of the Defendant Parks as well, your Honor.

THE COURT: All right.

MR. BROWN: Also the position of the Defendant King.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. HOOKER:

Q Mr. Bussie, how many people have you got in your organization in Louisiana?

MR. SCHIFFER: Objected to, your Honor.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q Have you talked to a great many people about Mr. Partin?

MR. BRANSTETTER: We object to this, may it please the Court.

THE COURT: Sustained.

MR. HOOKER: All right, stand aside. Call Mr. --

MR. BERKE: Just a minute.

RECROSS EXAMINATION

BY MR. BERKE:

Q Are you a member of the Building Trades Council?

A No, sir, I'm not.

Q Well, your organization is?

A No, sir, the Building Trades Council is a member of my organization.

Q As a member of your organization, don't you know, sir, that in the early part of 1962 that Mr. Partin was expelled from the Building Trades Council?

MR. HOOKER: We object to that.

THE COURT: I will let him answer if he knows. He can say if he knows.

THE WITNESS: Mr. Partin's organization was expelled from the Building Trades Council because of a conflict in union activity. Had nothing to do with his truthfulness.

BY MR. BERKE:

Q Matter of fact, in part of the newspaper article shown to you it was Mr. Partin himself personally that was expelled, was he not?

A The organization was expelled, sir.

Q Expelled him?

A The organization, when the organization is expelled, then the representatives from the organization are automatically expelled, sir.

MR. BERKE: That is all.

FURTHER REDIRECT EXAMINATION

BY MR. HOOKER:

Q For that matter, the whole Teamsters Union was

expelled from the AF of L-CIO?

MR. BERKE: Objected to.

MR. BROWN: Not the truth to start with, and Mr. Hooker knows it.

THE COURT: Sustained.

MR. BERKE: You don't know too much about it, Mr. Hooker.

MR. HOOKER: Well, if I wanted to find out, I will ask somebody besides you.

THE COURT: Let's proceed. Anything further with this witness?

MR. HOOKER: No, sir. Call Mr. Frank Jumonville.

MR. JUROR: Your Honor, a recess?

THE COURT: All right, let's take a recess at this time.

(Thereupon, at 10:40 o'clock, a.m., court was in recess.)

End 10
11 fls

TK 11
EW 1

(Following the recess the jury of 12 and 4 alternates remained excluded from the courtoom and in their absence the following proceedings were had, to-wit:)

MR. SILETS: May it please the Court, on behalf of the Defendant Dorfman, and I believe on behalf of all defendants, I would like to make a motion for the withdrawal of a juror and a declaration of a mistrial, and in support of my motion I wish to state as follows:

The Court, in the presence of the jury, in addressing respective counsel for the defendants used a tone of voice which expressed indignation, anger and admonition of the defense in the proper representation of their clients.

I did not make this motion in front of the jury, nor did I ask the jury be excused because it would point out to the jury exactly the basis for my motion.

The Court was, if I may in deference say to the Court, not only loud and angered of counsel but if it could be characterized I would say vicious. This, of course, was in the presence of the jury. I think the Court recognized this by within a few moments making an instruction to the jury not to consider the Court's comments. I suggest to the Court that such instruction is insufficient to protect the defense.

I think that this sort of reflection by the Court upon counsel must, of necessity, spill over to the defendants

themselves.

As another basis of my motion, your Honor, I move for a mistrial on the grounds that Mr. Hooker, in the presence of the jury, commented that the International Brotherhood of Teamsters was expelled from some organization.

This comment was intended for the primary and only purpose of eliciting and ejecting a prejudicial effect amongst the jury.

My third basis for the motion for a mistrial is that the witness from the stand had volunteered a statement concerning the Defendant Hoffa, he had volunteered as an unresponsive comment to a question placed to him by the defense that he had read about Hoffa, this even though the Defendant Hoffa had not himself placed his character into issue.

Fourthly, as a motion, a basis for my motion for a mistrial, Mr. Berke on cross examination had made inquiry into relevant and competent matters pertaining to the basis for this witness' ability to determine whether he could believe the truth and veracity as it--or whether he had knowledge of the truth and veracity of the Witness Partin. The Court, in the presence of the jury, instructed the jury to disregard those matters inquired of by Mr. Berke and said, if I may paraphrase the Court, that there was no basis in the record for such inquiry.

As a matter of fact, Mr. Berke was at the moment inquiring about the relation of the Witness Partin to Fidel Castro and the regime now entrenched in the Island of Cuba. As a matter of fact, there is in fact a basis in the record for such inquiry having been testified to by the Witness Hoffa. There is a document which was circulated in the community, which is marked in evidence, I think it is Exhibit 121, pertaining to the activities of the Witness Partin. It was appropriate, competent and relevant at the moment for Mr. Berke to inquire whether this witness knew of such circulation in the community.

Moreover, even if there was no basis in the record to ascertain and inquire of this witness concerning these circulations in Baton Rouge, nevertheless, as a matter of law, we would be permitted to inquire of this witness whether he, in fact, had knowledge of the matters that were occurring in the community with respect to the Witness Partin.

Furthermore, other matters which I, myself, started to inquire about, namely the arrest in Mississippi was cut off by the Court on objection by the government. Again this relates specifically to the knowledge of this witness as to the background, truth and veracity and the willingness of this witness to believe the background from the background and the truth and the reputation for truth

and veracity of the Witness Partin.

My fifth basis for motion for a mistrial is that the Court has unduly restricted me and all other defendants in the cross examination of this government witness, that through such denial of cross examination the Court has deprived us of due process of law and equal representation under the Constitution of the United States.

Your Honor, I say to the Court that in light of these points that the Court has expressed and I say this outside of the presence of the jury with all deference to the Court but, nevertheless, in my opinion, the Court has displayed a feeling of bias and prejudice against the defense and I feel, among other things, that these five base: warrant the Court to withdraw a juror and grant a mistrial and I say further there is nothing that the Court can do at this time to alleviate this situation. There is no conceivable instruction that the Court can make which would now withdraw from the minds of these jurors the things that I have related and I so move for a mistrial.

End Tk 11
Tk 12 fls.

THE COURT: All right.

MR. BERKE: Your Honor please, I would like to be heard a little bit on this.

THE COURT: All right. Just a moment. Overrule that motion.

MR. SCHIFFER: Made on behalf of all defendants, Your Honor--

THE COURT: (Interposing) All right.

MR. BERKE: If Your Honor please, at this time we would like an opportunity to recall this witness in order that we may lay the groundwork or to have a ruling of the Court on the scope of the examination of the additional two or four or how many character witnesses the court will allow on behalf of the government. We want to call the Court's attention to the rule that says that we have this very right which the Court and I say Mr. Silets says, that the Court did it on the objection of the government. I say that the Court did that on its own motion when I got into the Woodville, Mississippi rape matter the Court severely reprimanded counsel in the presence of the jury.

When I got into the Cuba situation the Court severely reprimanded counsel. Now, we have basis in the record for this and the Court in addition to reprimanding counsel stated that there was nothing in the record to substantiate that. In other words, the Court was telling

the jury in fact that there was nothing in the record, no evidence or no basis for such information. Now we don't have to have anything in the record.

The courts have gone so far as to say that if there has been a rumor in the community that a man has done so and so, he can be asked about the rumors about what people will say about him.

Now, if Your Honor please, we say that the government elected to put these witnesses on. The government brought itself in this dilemma. This is no fault of the Court. But when the government seeks to put this witness on, then the government is bound by the rules laid down by the appellate courts, not by what Mr. Hooker thinks about it.

And we say, for example, in thecase of Seigle versus United States, if Your Honor please, 246 Fed. Reporter 2nd on page 820, the Court said this:

"Hence a witness called as a character witness may properly be cross examined as to whether or not he ever heard of some incident that might have a bearing on his good reputation" and then citing a number of cases. And then it quotes this: but a witness to good character may be asked on cross examination to test his credibility whether he has heard rumors of particular and specific charges of the commission of acts inconsistent with the character which he was called to prove generally as to the grounds of his

evidence not so much to establish the truth of such facts or charges as to test his credibility and to determine the weight of his evidence. He may be asked if he has not heard some general report which contradicts the good reputation which he has been called upon to prove." The witnesses here were simply asked whether or not they had heard of the incidents referred to in the question. We think the cross examination was imminently proper. Now what basis does anyone, the government here or anyone say that we can't ask about these things when we have circulars that were circulated. We have got statements here about these rape charges. Now all that goes to the reputation. Why should that witness be cloaked with a mantle of secrecy on these items? Those are matters that go to his credibility. Those are matters that go to his character and reputation. The higher courts have said that. We think we are entitled to--

THE COURT: (Interposing) May go as to whose character and reputation?

MR. BERKE: They go to the character and reputation of Mr. Partin for truth and veracity?

THE COURT: Mr. Berke, isn't that exactly the reason you were attempting to get them in the record, go to the character and reputation of Mr. Partin and not go to the credibility of this witness? The only purpose that you were seeking to put that in the record, Mr. Berke, is just as

you have indicated, that is to seek to get before the jury matters that you knew had been repeatedly ruled out by the Court?

MR. BERKE: Your Honor please, with due deference--

THE COURT: (Interposing) This Court is not going to allow attorneys with impunity--

MR. BERKE: (Interposing) I don't think--

THE COURT: (Interposing) Just a moment, sir.

MR. BERKE: Sorry, Your Honor. Go ahead.

THE COURT: This Court is not going to allow attorneys with impunity to repeatedly and to wilfully violate the Court's rules and instructions and to seek to inject into the record matters which the Court has repeatedly and upon numerous occasions stated were not competent matters. And you are not going to be permitted to do that under some ruse or some guise of cross examining a witness. The purpose that you were seeking to accomplish is exactly the purpose that you stated and that is, to let these things into the rscord as to the character of Mr. Partin.

End 12
12 A fol.

MR. BERKE: That is what we are trying to prove, your Honor, they are trying to prove and I think--

THE COURT: (Interposing) You were examining this witness for the purpose of cross examining and testing the credibility of this witness and the Court allowed you the broadest possible sort of cross examination--

MR. BERKE: (Interposing) Your Honor--

THE COURT: (Interposing) Just a moment, sir.

MR. BERKE: Yes, sir.

THE COURT: Surely the Court has a right to speak in the court. If I haven't that right--

MR. BERKE: (Interposing) Yes, your Honor, when your Honor is through--

THE COURT: (Interposing) What is the purpose of having a judge to preside over a trial? Now, then, gentlemen--

MR. BERKE: (Interposing) If your Honor please, may I--

THE COURT: (Interposing) This Court has absolutely no bias, no prejudice against any party to this lawsuit. The attorneys in this lawsuit have made it difficult for the Court throughout the trial of this case and we are now toward the end of the sixth week of trial, but this Court has attempted to be just as fair and just impartial as it could possibly be. I have sustained objections when

I thought under the law they were entitled to be sustained irrespective of who made them. I have overruled objections when I thought they were entitled to be overruled, irrespective of who made them.

If counsel wish to charge this Court with bias and prejudice that is a matter that they may do if they think that is proper and fitting. And that is a matter that I am perfectly willing for any Appellate Court in the land to look upon and to read the record. But this Court has responsibility for trying this lawsuit and trying this lawsuit upon the issues of the lawsuit. As I stated, I do not intend to allow any attorney, not any attorney, on either side, to with impunity repeatedly and willfully disregard the rulings and the instructions of the Court.

End Tk 12
Tk 13 fls.

THE COURT: Now, gentlemen, your motions are overruled.

MR. BERKE: May I state, if your Honor please --

THE COURT: (Interposing) Your motion is overruled and the characterization made of the Court's manner, I will let the record itself speak for that. I will let the record itself speak for the propriety of what the Court has said, but we are not going to allow counsel to disregard repeatedly the instructions of the Court.

I don't know how many times I have to repeat that in this trial, but I hope that eventually counsel will become aware of the fact that the Court means exactly what it says in that respect.

MR. BERKE: Now, may I state --

THE COURT: (Interposing) Yes, sir.

MR. BERKE: In the first place, I think the Court has misunderstood my argument when --

THE COURT: (Interposing) The Court has not misunderstood your argument, Mr. Berke.

MR. BERKE: May I continue, your Honor? I think that on the issue of credibility that the Court was talking about I was not attacking the credibility of the witness that was testifying, I was going into the character and reputation of Mr. Partin, the witness about whom this witness had talked about, and all I am saying to your Honor, out of deference to

your Honor's thought otherwise, is that the courts have held that we do have a right, not only to go into facts of which we do have a basis but even rumors which are far more removed than the facts that we actually have in the record and I am reading from what the Appellate Courts have said, if your Honor please, and I am fortifying myself with their language, not my language, if your Honor please, and we say that the Court, and I will ask the Court to read this case --

THE COURT: (Interposing) Yes, I have read the case, Mr. Berke.

MR. BERKE: And it does not have anything to do with credibility. I may have used the word "credibility" in my statement and the Court has attached great significance to it. If I did, then I am sorry about that, but I --

THE COURT: (Interposing) This Court, nor do I believe any court, can be so naive as to doubt what the purpose of your examination was, Mr. Berke.

MR. BERKE: The situation -- it will just be another minute -- I would like to reply to the Court. We didn't put this witness on the stand. They are seeking to fortify a witness that has what I am willing to state to the Court, without impunity, about as bad a reputation as I have ever heard in my life.

Now, I say we are entitled to go into not only arrests and convictions but other charges that other people

have made against him, such as those handbills there, if your Honor please, that has been widely circulated in Baton Rouge, and is part of his reputation and we are simply --

THE COURT: (Interposing) I'm instructing now, Mr. Berke, and I am instructing all counsel, that no counsel are going to be permitted to ask questions about matters that have been repeatedly excluded by the Court and I want to see that instruction observed.

MR. BERKE: I would like to state, if your Honor please, of course, we want to except to the Court's ruling, but we automatically have that exception, but I would like to state that I think that it was improper for the Court to state that there was no basis for counsel to ask the question and I am simply trying to show the Court that I was in good faith under the authorities in asking the question and I think that the Court unduly chastised this counsel here for making statements which I in good faith, as an attorney, thought, I may be wrong, but I am going by what the circuit court of appeals said, that I had a right to ask the question, and I don't think that the Court properly chastised me for doing that.

I think you did it in the presence of the jury and if I impugned any improper motive to the Court, I want to apologize to the Court, but I say at the same time I am entitled to an equal apology.

MR. SCHIFFER: Your Honor, on behalf of Parks I should like to address the Court because your Honor has made such very serious charges which I have never had leveled against me as an attorney in any court.

Insofar as the Defendant Parks is concerned, your Honor, I am here to defend him and I will defend him to my death on the constitutional right that he is guaranteed by law and I don't care what the government wants to do about it. They can go one way or the other, I will catch up with them, and I am not going to wait for no appellate court, I intend to catch up with them before this jury.

Now, then, your Honor accuses counsel now of toying with the Court, that we are not acting in good faith with you.

May I suggest, your Honor, that we have a right to have the Court protect us against unjust, illegal activities on the part of the government representatives at this table and what has happened here.

If your Honor will read the record, and I have been reading this record every night, every day we have received it, and what emerges in this case, that Partin is an outright perjurer.

Did the Court assist Mr. Parks in any fashion? It seen to it that Partin was kept within limits, that we could cross examine him the way the rules state, I fail to

see anything in the record, your Honor, where at any time your Honor forced the prosecution to abide by the rules of evidence in this case, both on direct examination and cross.

Your Honor permitted a willful perjurer, and I say now your Honor had the proof weeks ago that he was perjuring himself on material issues, you knew he was put in by the government, we were not told about that. We were left to find it by chance, but the truth will always out.

I am now accused here with the other counsel of not being fair and honest with this Court and I must state, with full respect to the United States District Court, I resent it.

I have practiced over 30 years now. I never had this happen in any other court. Why does it suddenly emerge in this Court? Why is the Court offended because I called Partin what he is, an outright perjurer? Is the Court offended that government representatives came in here knowing he was perjuring himself when he testified and that when we asked the Court to admonish counsel for the prosecution the Court would not? What is Parks supposed to do here? Lay his head down on the chopping block to satisfy the government here?

They tried to induce perjury. Why is his word not taken with equal weight as a confessed perjurer Partin? In effect, it may be sheer inadvertence on the part of the

Court, I simply say to your Honor the fact remains that every opportunity to today and to this morning's session, whatever Partin has been, whenever Partin has been attacked by the defense and always attacked within the rules, your Honor, for some reason or the other, the government has sought to keep him where they tried to put him, and the Court involuntarily assists the prosecution. Nobody need dare say anything about Mr. Partin, the confessed perjurer, on this record.

Now, I ask your Honor what is the responsibility of the lawyers in this case? Perhaps it may very well be we could be vitally assisted by the Court if the Court would tell us how we are supposed to defend a man, a defendant in this case, against willful perjury.

Maybe there is a new technique we have not heard about. I am willing to abide by your Honor's decision. Maybe I need some instruction and I welcome it.

Now, the Court goes that additional step. I can't argue on the law, I can only argue rules of evidence. That's the only way I learned it. Your Honor has taken a position now before this jury, has indicated time and again that the defense counsel are here as charlatans, that's what you conveyed to the jury. This jury feels now that Neal --

THE COURT: (Interposing) Sir, you make that characterization, the Court does not make that characterization.

MR. SCHIFFER: I say what the jury has --

THE COURT: (Interposing) The Court has never made that characterization of any counsel.

MR. SCHIFFER: I say this, the net effect to this jury is that all defendants' counsel here are charlatans, that we are tricksters, that we are trying to fool the Court, we are trying to impose upon the Court, and we are trying to impose on government counsel, and we are trying to fool the jury. That is what they feel now, your Honor.

I have seen jurors for over 30 years. I can see reactions whenever I must stand up and make a legal objection the Court glares at me. The jury sees this and I say to your Honor this is inadvertent, but this is not a fair trial. I am here as this man's counsel. I am not here to assist the prosecution and whatever we had emerge in this case, and the Court will not assist us to this very moment, that with Partin, the so-called star witness, a real outright perjurer on this record, and your Honor permits him to be protected to this very moment. We put on our evidence by rules, put on a witness to this very issue. Am I to be accused because Mr. Partin tried to trade with a dictator Castro, acknowledge to be accused of bad faith with this Court when I want to expose a traitor? Am I to be accused by this Court of some kind of chicanery when I try to show for the benefit of the Court and the jury that this man is committing treason, this

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Partin, against presidential decree in this country, the highest law in the land dealing with foreign affairs with the knowledge of the government? They don't prosecute, they give him a license to do this.

End 13
14 fls

And your Honor says because I tend to bring it out in evidence, why, I'm some kind of chicane, there is something wrong. Defense counsel should not do this.

THE COURT: Again, Mr. Schiffer, you made that accusation. The Court has not made that accusation.

MR. SCHIFFER: Well, that is what the jury is inferring, your Honor, every time we get up for a legitimate objection and the Court only indicated since the jury left here, your Honor, that for some reason you feel that the purpose why we were examining this particular witness on the stand now was not because we wanted to reach the truth in the case, but we wanted to slip off some way in the record to this jury illegal evidence.

Well, your Honor, may I say this, if in this United States of America, if we have sunk to that low point in a United States Court where a witness for the prosecution, its treason, with the knowledge of the prosecutors, and we are to be prohibited on the defense from exposing that kind of a dirty, vicious deal, justice is finished in America.

THE COURT: All right. Allow the motions to be overruled. Are we ready to proceed, gentlemen?

MR. HOOKER: Yes, sir.

THE COURT: Have the jury returned. Call the witness.

MR. BERKE: May I call the Court's attention to

one case, I would like the Court to read this. Sixth Circuit Court case of Horton vs. United States.

THE COURT: Sir?

MR. BERKE: Horton (spelling) H-o-r-t-o-n vs. United States, 256 Fed. 2d 138. That is in this district.

In this short statement, of course, is quite a comment, but this is apropos. The argument that there was error in cross examining character witnesses must be rejected. Once a defendant puts his character in evidence it is proper to cross examine the witnesses as to their basis for judgment and even to question them as to rumors concerning the defendants and the same rule applies to witnesses.

Any character, once it is placed on the stand we could ask about rumors but, if your Honor please, we didn't go into rumors. We went into something we had the actual basis for it. The documentary evidence. And we say that this is cutting off cross examination that we are entitled to have.

THE COURT: All right. Well, the Court will take a brief recess to read that case at this time. Let's be in recess about five minutes, gentlemen.

(Court was in recess approximately five minutes and then court was in session.)

THE COURT: All right, gentlemen, can we proceed to another area? Until the Court has had time to examine

the authorities?

MR. HAGGERTY: May it please the Court--

THE COURT: (Interposing) Yes, Mr. Haggerty.

MR. HAGGERTY: Your Honor, there has just been called to my attention a matter concerning the jury. I request the Court at this time to hold a session in chambers as I do not think this should be talked in public.

THE COURT: All right, sir. Let's recess to chambers at this time.

(Thereupon, at 11:27 o'clock A.M., court recessed to chambers and there the following proceedings were had, to-wit:)

THE COURT: Are all attorneys present? For each counsel and are all defendants present? Yes, all defendants are present and all counsel are present. All right, Mr. Haggerty.

MR. HAGGERTY: Your Honor, we have been informed that the marshals not only have been wining and dining this jury, but they took them to a concert by Liberace. They took those who wanted to go to the Tivoli Theater to a fight. But that is not the immediate problem. I have just been informed by Frank Ragano (spelling) R-a-g-a-n-o, who I know to be a reputable attorney, that during the arguments just conducted in the courtroom, Mr. Ragano placed himself on the other side of the courtroom and the jury were kept in such

a position that they could hear the argument to what extent I do not know, and one of the jurors, an alternate juror by the name of Curbow, I think he is the first alternate juror, stated to five people, jurors surrounding him, that that is the way it is in substance, the weaker your case the louder you shout.

Now, you have instructed this jury not to comment. They heard something, which they were excluded from the courtroom not to hear. I have Mr. Ragano here. I suggest he be sworn by your Honor and give his testimony. I further suggest that your Honor call in privately Mr. Curbow and ask him to meet the charges of his making statements of this nature to other jurors which, in fact, is a discussion of the case directly against your Honor's instructions. I ask Mr. Ragano be brought in and sworn.

THE COURT: Anything further?

MR. HAGGERTY: No, your Honor.

THE COURT: All right, well, let's proceed with the lawsuit then again we will take this matter up at the appropriate time. We will not delay the lawsuit at this time.

MR. HAGGERTY: Well, don't you think,your Honor, when I point this out to you, if there is contamination in this jury, to allow it to persist is fatal? I think the amount of it and the degree of it should be ascertained at this time

before we proceed further.

THE COURT: Well, the Court will just have to take this under advisement at this time and determine what the proper procedure is, Mr. Haggerty.

MR. HOOKER: We think all persons should be instructed to stay away from where they can hear anything out of the jury room.

MR. HAGGERTY: It is rather too late now, Mr. Hooker, and I think it is a fortuitous circumstance that that was heard. I think Mr. Ragano had a perfect right to be where he was and he went there for the purposes to see--

MR. REDDY: (Interposing) What was he outside the courtroom back in the alleyway you are speaking of?

MR. SILETS: Your Honor, Mr. Branstetter and I were listening to the argument and we commented on the fact that it might be overheard by the jury. I called Mr. Ragano over and asked him if he would please step around the other side.

THE COURT: Why was it not suggested that counsel be a little more temporate in their argument? When counsel were shouting to the top of their voice, to the rafters ringing, Mr. Schiffer was heard up at the County Courthouse. I don't know how counsel can expect to conduct themselves in that manner.

End Tk 14
Tk 15 fls.

MR. SCHIFFER: Well, Judge, for the record I wasn't shouting. I can really shout.

THE COURT: Oh, Mr. Schiffer, you were absolutely at the very top of your voice.

MR. SILETS: Your Honor, may I complete my statement?

THE COURT: Yes.

MR.SILETS: And I called Mr. Ragano over to me in the midst of argument and asked him if he would please go around the courtroom to the other corridor, there are two corridors to either side of the courtroom, to see if he could, if it was in such a position there that the jury might overhear.

Now, this is the first I have overheard of it, this is the first I have heard of the results of his inquiry and apparently, as Mr. Ragano is willing to state under oath, that this is the situation, I think the Court must at least take a poll of the jury at this time because otherwise, as Mr. Haggerty says, this jury can be well affected by it. I think it is an obligation of the Court to determine that now.

MR. HAGGERTY: Mr. Ragano also called it to the attention of the marshal, took the marshal's name and took the juror's name.

MR. REDDY: It seems to me that this is a matter

of sending an attorney for the defendants around there to spy on the jury to see what the jury is thinking about this matter.

MR. HAGGERTY: That is a very serious matter, I'm sure, Mr. Reddy, under these circumstances. That is not the issue.

THE COURT: Well.

MR. SCHIFFER: If the jury has been contaminated, Your Honor, the jury has been contaminated they certainly are not entitled to hear any more evidence in this case because it becomes a ludicrous farse to continue with a jury that is contaminated and if anybody is we should not go ahead with any evidence now with someone who has made up his mind already as to the merits of the case.

MR. REDDY: Mr. Schiffer, if shouting by you, Mr. Schiffer, amounts to contamination--

MR. SCHIFFER: (Interposing) Let me set the record straight on the shouting business. Every time the prosecution does something in defense of due process I will raise my voice and if anybody has an objection to it state it on the record because I am not going to take it lying down. I want the prosecution to know that.

MR. REDDY: Are you trying to scare someone, Mr. Schiffer?

MR. SCHIFFER: No. You are trying to scare somebody,

all you people are doing throughout this--

THE COURT: (Interposing) Gentlemen.

MR. REDDY: Just don't shout.

MR. SCHIFFER: You are not going to scare me, I assure you.

THE COURT: Well, the Court will take this under advisement during the noon recess and make some determination of the proper procedure at this point.

MR. HOOKER: May it please Your Honor, the other witnesses we have are on an entirely unrelated subject and will take longer than the ordinary adjournment time to finish either one of them.

MR. BERKE: Will there be any more character witnesses?

MR. HOOKER: We don't want to waste the time but we would much prefer if we could to complete this character proof before going into the last two witnesses we have.

We only have, after the character proof, two other witnesses and I think that the continuity of it is important.

THE COURT: All right.

15A MR. BERKE: Judge, may we suggest that we iron out this now? Will Your Honor permit three or five or whatever--

THE COURT: (Interposing) No, three is the rule.

MR. BERKE: Three, all right.

THE COURT: That is all.

MR. BERKE: You do have two more character witnesses?

MR. HOOKER: Yes, sir.

MR. BERKE: All right. The reason I asked if you had two more, Your Honor, if it didn't--, if they were going to cease the character witness proof we would want to recall the witness that they had.

MR. HOOKER: We have five more but we, of course, will have to limit it to three.

MR. BERKE: All right. We want to know because of the questions we have raised and I think Your Honor has taken that under consideration.

THE COURT: All right.

MR. BRANSTETTER: Would it be appropriate--

MR. HOOKER: (Interposing) You mean you want to recall Mr. Bussie?

MR. BERKE: If you use two others we will not recall him.

MR. HOOKER: I would prefer if we could, I am not insisting on that.

THE COURT: All right. We can proceed in whatever order you wish to proceed, call whoever you wish to call.

MR. BRANSTETTER: I was going to raise a question, may it please the Court, as to an instruction to counsel, if that is the appropriate method as to the limit of cross examination because there is apparently a great deal of misunderstanding on it.

THE COURT: Well.

MR. BERKE: The Judge has that under advisement.

MR. BRANSTETTER: Excuse me.

THE COURT: The Court has given instructions that it will follow at this time until it has further authority, that is, you will not be permitted to ask a character witness about matters that have been excluded from the testimony, namely, the alleged Cuba matters and the alleged rape matters, those will not be injected into the record by any examination of character witnesses.

MR. HOOKER: Then we may call our next character witness.

THE COURT: Yes.

MR. BERKE: Could we--

MR. SILETS: (Interposing) Your Honor, before we leave chambers--

MR. BERKE: (Interposing) Excuse me, Mr. Silets. Could we then reserve cross, further cross examination on that until the Court has an opportunity to check the authorities and we will try during the noon hour to get a

little more comprehensive memorandum to the Court on that issue. We are still convinced that we do have that right to do it.

THE COURT: Well, let's proceed, gentlemen.

MR. SILETS: There is one thing, if the Court please.

THE COURT: Yes,s ir.

MR. SILETS: Mr. Branstetter and I have just been discussing limitations on cross examination. May we have it understood with the government, since they are tendering these witnesses for the precise purpose of character as to Partin, that there are, as Mr. Branstetter has said a number of times, there are only three questions that can be asked. May we have those specifically laid out so these people will be asked those questions and answer them? That is my understanding of the basis for this kind of a witness, that he knows the general reputation in the community and what is the general reputation?

THE COURT: Well, did you not put on the gentleman from Dallas who said that his knowledge of the witness Partin was what knowledge he had from the trucking people that he dealt with?

MR. BRANSTETTER: We had a disagreement among counsel on that, I frankly disagreed that it couldn't be done.

MR. BERKE: I didn't think it could be done, Your Honor.

MR. HAGGERTY: May I point out one additional factor? This man who now lives in Dallas did live in Baton Rouge, he managed for a number of years.

THE COURT: Well, this gentleman just examined lived in Baton Rouge, he testified to his knowledge.

The matters you have raised, gentlemen, would to the weight of the witness' testimony, it would not go to the admissibility.

MR. NEAL: May we point out, Your Honor, Mr. Silets is not quite correct, we are not offering these witnesses for general character, we are offering--, I think there is the confusion that Mr. Berke has on the law--, I think we are offering these people for the limited purpose for the truth and veracity not for general character.

MR. BERKE: All of thos e--

MR. SILETS: (Interposing) Knowledge of his reputation in the community for truth and veracity and that is the question that should be asked.

THE COURT: Why not do this, gentlemen, why not adjourn court at this time for lunch and come back earlier, meet back here at 1:15?

MR. HOOKER: That would be agreeable to us.

THE COURT: I believe that would be the better

procedure.

MR. BERKE: All right, Your Honor.

MR. HAGGERTY: Well, Your Honor, not attempting to be tenacious but, on the other hand, I think the matter that I raised is such a matter that Your Honor should give it, if I may boldly suggest, immediate consideration.

THE COURT: I certainly will, Mr. Haggerty.

MR. SILETS: May the marshals be cautioned not to discuss this matter with the jurors?

THE COURT: Yes, sir. Mr. Sertel, if you will see to it that any marshals in any way attending the jury do not in any way discuss any matters discussed in the absence of the jury.

MR. BERKE: May I inquire, if Your Honor please, the marshals are here now, inquire as to how they conduct the reading matter?

For example, there were over 30 Reader's Digest in the lobby of the Read House, I don't know how free access-- I know the jurors have access to purchase things in the soda fountain down here and if there is any way that they do that-- Now, what we did, if Your Honor please, as a precaution we bought up all the Reader's Digest they had there, which was some 28, I think, and they had already sold a number of them, in order to prevent the jurors from getting the article. It was a very derrogatory article and we want to see what

protection is being given to the jury again.

THE COURT: Well, the Court understands that no such articles are in any way permitted to the jury.

MR. BERKE: We are just showing the Court that we are, out of an abundance of precaution, we are buying things just to prevent some misconduct creeping into the record so we are trying to be in good faith with the Court.

MR. HAGGERTY: What we--

THE COURT: (Interposing) Let's adjourn court until 1:15.

MR. HAGGERTY: What we would like to know on this Reader's Digest, which is a detrimental article and highly detrimental to the Defendant Hoffa.

MR. SILETS: And Dorfman.

MR. HAGGERTY: And Dorfman, if any of the jurors have read it.

THE COURT: All right. Gentlemen, the Court will take these matters under consideration and we will take them up at 1:15.

Let's go back into open court to adjourn.

End 15A
16 fol.

(Thereupon, at 11:45 o'clock, a.m., in the absence of the jury and 4 alternates, in the courtroom, the following proceedings were had, to-wit:)

THE COURT: Let's have the jury come in just a moment for instructions, not to take a seat. It might be easier for them to just take a seat, yes.

MR. SERTEL: You want them to take a seat?

THE COURT: Yes, sir. Have them take a seat. No, they can remain standing.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and with the jury standing the following proceedings were had, to-wit:)

THE COURT: Ladies and gentlemen of the jury, we are going to recess for lunch a little early today and request that you be back at 1:15. Well, it will be about 1:20 before we can get started again. During the recess observe the instructions the Court has always given you, that is, do not discuss the case among yourselves or allow anyone to talk with you about the case or in your presence. Be back, the jury will be back at 1:20, please.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: All right, gentlemen, let's recess then until 1:15.

(Thereupon, at 11:47 o'clock, a.m., February 27, 1964, court was adjourned for lunch.)

AFTERNOON SESSION

1:15 O'Clock, P. M.
February 27, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom, and in their absence, the following proceedings were had, to-wit:)

THE COURT: All right, gentlemen, let's recess this hearing to chambers to continue a discussion of matters that we were discussing before recessing for lunch.

(Thereupon, the Court, the parties, and counsel for the respective parties retired into chambers where the following proceedings were had, to-wit:)

THE COURT: Have Mr. Ragano come in, please. Have Mr. Ragano come in, please.

MARSHAL SERTEL: We are getting him, your Honor.

THE COURT: All right. Gentlemen, I believe that all defendants are present, I believe that all counsel are present. With regard to the matter we were discussing just before the noon recess relating to the jury, Mr. Ragano, if you will, please just make a statement for the record as to what transpired.

MR. RAGANO: Yes, sir. May I be seated, your Honor?

THE COURT: Yes, sir.

MR. RAGANO: It was at approximately 11:25 a.m., just a few moments after the jury had been excused, and Mr. Jacques Schiffer, counsel of record for the Defendant Thomas Ewing Parks, was making an argument on a point of law in the absence of the jury. I was motioned by Mr. Harvey Silets to approach him, and he suggested to me that in view of the fact that Master Jacques Schiffer was arguing in a loud tone of voice, which he was, that it would -- he deemed it advisable to go around to the other side to determine whether or not the jury could overhear the arguments out in the corridor.

So I proceeded to the door leading to the corridor that runs parallel to the courtroom on the side of the court where the jury always exits when they leave the courtroom.

The door was shut, but it was not locked. I opened the door, went past this door just a couple of steps, saw the marshal was standing at the far end of the corridor along with several jurors, whom I recognized.

I waited for the deputy marshal to approach me. He asked what the purpose was of my being back there, and I told him that I wanted to ascertain whether or not the jurors could overhear the arguments of Mr. Jacques Schiffer in the corridor.

He then permitted me to go to the door that leads to the corridor from the courtroom and the door that is used

by the jurors, and I went to the door and stood alongside of the door, and you could hear Jacques Schiffer very loudly in the corridor, although you had to stand right next to the door in order to actually distinguish words, if you stood a few feet away from the door, you could not distinguish the words, but you could hear his loud argument.

While standing there and listening to Mr. Jacques Schiffer's argument there in the corridor, standing within, I'd say, four or five feet from the jurors, a group of jurors that I would approximate being some five or six jurors, there was one heavyset gentleman who was seated in the chair, as a matter of fact, he was sitting in the chair leaned up against the wall and he was leaning back in his chair. He is a rather heavyset fellow and he made --

THE COURT: (Interposing) Did you identify him?

MR. RAGANO: Yes, I did, your Honor. I had the marshal identify him for me. I will get to that.

THE COURT: All right. Proceed.

MR. RAGANO: And this gentleman who was seated in the chair stated in a loud tone of voice that I could hear, and I was standing further from him, that he had always heard that the weaker the case the louder you holler. Then made some statement to the effect when you got a weak hand, playing cards I believe he was referring to, that you made a lot of noise and I believe he rephrased and repeated it two or three

times. I then asked the marshal who that gentleman was and he stated that he was an alternate juror and I asked the assistant marshal if he would give me his name and he stated his name was Mr. Curbow.

At that time I left. I did recognize some of the jurors who were standing around Mr. Curbow within hearing distance of him at the time that he made these remarks and I can identify some of those jurors as being on the regular panel.

THE COURT: All right.

MR. RAGANO: That is the sum and substance of it, your Honor.

End 17
18 fls

THE COURT: As I understand it you were in the courtroom whereupon the argument began by defense counsel?

MR. RAGANO: Yes, Your Honor.

THE COURT: And it was at Mr. Silets' suggestion that you left the courtroom?

MR. RAGANO: It was, Your Honor.

THE COURT: And you went out of the courtroom on the side where the jury normally exits from the courtroom?

MR. RAGANO: That is right. I might add this that I had never--

THE COURT: (Interposing) This was shortly after the Court had excused the jury?

MR. RAGANO: I would say within a few moments after Your Honor had excused the jury.

THE COURT: And you went out then outside the courtroom into the corridor outside the courtroom?

MR. RAGANO: That is correct.

THE COURT: The corridor where the jury normally exits?

MR. RAGANO: I might add, that is correct, Your Honor, but I might add--

THE COURT: (Interposing) As you went down, you went down the hall then?

MR. RAGANO: Out in front of the courtroom, if Your Honor please, in the lobby of the courtroom there.

THE COURT: Well, was it where you were listening, was it the door at the rear of the courtroom near the bench?

MR. RAGANO: Yes, Your Honor.

THE COURT: And that is in the general area where the jury was at the time?

MR. RAGANO: Yes, Your Honor, and I might add this, I had never been back there before and I didn't know whether or not when the jury exited from the courtroom whether or not they went in the jury room or not. I was merely going in the corridor.

THE COURT: And, of course, that corridor, you didn't go in out in the front door of the corridor? You went out of the door in the middle of the courtroom?

MR. RAGANO: No, Your Honor. I went all the way out to what I refer to as the rear of the courtroom and lobby affair.

THE COURT: And then came in--

MR. RAGANO: (Interposing) And then came in the other door that runs parallel to the courtroom.

THE COURT: Is there a closed door to the entrance to that hallway?

MR. RAGANO: That's correct, Your Honor.

THE COURT: You came through that door all the way down the corridor?

MR. RAGANO: Your Honor, I opened the door. Stood

there until the marshal approached me. Then sought permission for me to go down the corridor. He granted me the permission. I told him the purpose of my being there. I did not speak to any of the jurors at all.

THE COURT: Was anyone with you?

MR. RAGANO: No one was with me.

THE COURT: Then you came out the corridor in the area of the courtroom where the jury assembled outside the courtroom?

MR. RAGANO: Yes, sir, in order to identify this if Your Honor please, it would be adjacent to Your Honor's bench or to the rear of the jury box.

THE COURT: And you say that Mr. Schiffer was arguing at the time?

MR. RAGANO: That is correct, Your Honor.

THE COURT: You could hear his voice but not distinguish the words?

MR. RAGANO: Unless you stood right next to the door which I did and then you could distinguish his words but you could hear him certainly loudly and clearly in the corridor where the jury were standing.

THE COURT: As far as distinguishing words out there they couldn't distinguish words out there?

MR. RAGANO: Not unless you stood right next to the door as I was, Your Honor. I might add that these remarks

were made by Mr. Curbow in the presence of the Assistant United States Marshal.

THE COURT: Mr. Ragano, were you conducting surveillance of the jury?

MR. RAGANO: I was merely doing what I have stated, Your Honor, attempting to ascertain--

THE COURT: (Interposing) Were you eavesdropping on the jury?

MR. RAGANO: No, sir, I wasn't eavesdropping on the jury. I was attempting to ascertain whether or not--

THE COURT: (Interposing) Were you not in the area where the jury is kept when it is outside of the courtroom?

MR. RAGANO: I have stated it, Your Honor.

THE COURT: And where the jury is specifically kept?

MR. RAGANO: I have stated to Your Honor that I didn't know where the jury was kept. All I knew you open the door--

THE COURT: (Interposing) You saw the jury there, didn't you?

MR. RAGANO: I did.

THE COURT: Before you arrived there at the point where you were listening?

MR. RAGANO: I did.

THE COURT: And you went there in the presence of the jury?

MR. RAGANO: Within a few feet of the jury, I did, Your Honor.

THE COURT: And you were in a place where you could overhear the jury?

MR. RAGANO: Yes, I could, Your Honor.

THE COURT: And you say you were not conducting surveillance of the jury?

MR. RAGANO: No, sir, I was not.

THE COURT: Who sent you? Who sent you there to the place where you went?

MR. RAGANO: No one sent me.

THE COURT: Who suggested you go there?

MR. RAGANO: I have stated it was Mr. Harvey Silets' suggestion.

THE COURT: Mr. Silets, did you send him there?

MR.SILETS: Your Honor, I suggested Mr. Ragano go to the corridor opposite to the one the defense goes.

THE COURT: Did you send Mr. Ragano out of the courtroom to the area where the jury retired?

MR. SILETS: No, sir, not to the area where the jury retired, Your Honor. I asked him to go into the corridor where the--, Your Honor, may I please finish? I asked him to go out and see if that Mr. Schiffer's argument

could be overheard from the other side of the courtroom. I did not send him in to any area where the jury was. He was not--

THE COURT: (Interposing) Did you not observe where he went?

MR. SILETS: No, sir, he went out the door right behind me.

THE COURT: He went out of the courtroom?

MR. SILETS: Yes, sir, he did. Now, Your Honor, I want the Court to know, nobody has sought to have any infraction of the Court's rules. Mr. Ragano--

THE COURT: (Interposing) You were aware of the fact that the jury was taken out of the courtroom on that side in that area, were you not, Mr. Silets?

MR. SILETS: Your Honor, I don't know where the jury is kept. I don't even know where they go at night.

THE COURT: Mr. Ragano, are you an attorney?

MR. RAGANO: Yes, I am, Your Honor.

THE COURT: Where do you practice law?

MR. RAGANO: Florida.

THE COURT: Where in Florida?

MR. RAGANO: Tampa, Florida.

THE COURT: What is your address?

MR. RAGANO: 416 Pierce, (Spelling) P-i-e-r-c-e.

THE COURT: What is your connection and association

in this lawsuit?

MR. RAGANO: I suppose I am counsel assisting, although not counsel of record.

THE COURT: You are an attorney for which defendants? Which defendant or defendants?

MR. RAGANO: I am assisting in the case of Mr. Hoffa.

THE COURT: And have been assisting in the case throughout the trial of the case?

MR. RAGANO: Periodically.

THE COURT: And have been in and out of the courtroom?

MR. RAGANO: I have, Your Honor.

THE COURT: Various times throughout the trial?

MR. RAGANO: Many times.

THE COURT: All right, gentlemen, well, let's go back to the courtroom. Proceed.

End 18
Tk 19 fol.

(Thereupon, the Court, the parties, and counsel for the respective parties returned into open court and in the absence of the jury, the following proceedings were had, to-wit:)

MR. SERTEL: All right, court will be in session.

THE COURT: All right. Are you ready to call the next witness?

MR. HOOKER: Yes, sir. Mr. Sertel, you have the name of the next witness?

MARSHAL SERTEL: Yes, sir.

MR. HAGGERTY: I desire to present your Honor with a memoranda of law pertaining to the very issue that is before the Court.

THE COURT: All right, sir.

MR. BERKE: May I read a short paragraph into the record, your Honor?

THE COURT: Yes.

MR. BERKE: So there shall be no doubt what my purpose was in cross examining this last witness, it was, among other things which we already stated to the Court, it was further to test whether the witness ever heard of some incident that might have a bearing on the reputation of the character which he was called to prove and to test the witness' credibility whether he had heard rumors of specific charges of commission of acts inconsistent with the character which he was called to prove generally as to the grounds of his evidence, not so much to establish the truth of such facts or charges as to test the credibility and to determine the weight of his evidence.

THE COURT: All right. Gentlemen, you will be

allowed reasonable cross examination. You will not be allowed to cross examine in the areas which the Court has indicated but likewise your cross examination must be reasonable as to time and reasonable as to content.

The last witness, for example, indicated that he had never known this man prior to 1957 and yet you very deliberately went back to 1941 about matters which obviously he had no knowledge of. The Court could only conclude that the only purpose of that was to attempt to get before the jury evidence that was otherwise incompetent.

MR. BRANSTETTER: May it please the Court, I would like to move for a mistrial at this time on behalf of the Defendant Campbell on the basis that the method of procedure at this point, the procedure in examining witnesses is such that the interest of one client may not be the interest of the other client, particularly with this witness that I examined in the utmost good faith, there may be conflicts as to what is to the best interest of Campbell as to the other defendants, therefore, the Defendant Campbell should have a severance.

THE COURT: Overrule that.

MR. SCHIFFER: So move on behalf of the Defendant Parks.

THE COURT: All right. Allow it to stand on behalf of all defendants, overrule this to all defendants.

MR. BRANSTETTER: May it please the Court, I think, too, if I might state in that regard, although the Court overruled it, the agreement or disagreement or the statement of one counsel as to another does not always relate to the other, I want the record to show clearly on that insofar as the Defendant Campbell is concerned or the possibility of conflicting interests or defenses.

THE COURT: All right. May we proceed, gentlemen?

MR. BERKE: I'd like for the Court to tell the jury that if I have been in bad faith it should not go against James Hoffa, although I say again I was not in bad faith, that I had authority to back up the position that I took in cross examination.

THE COURT: All right, sir.

MR. BERKE: And I think that the admonition that the Court made to defense counsel in the presence of the jury was prejudicial. I don't mind it so much for myself but I do in representing my client. I think it's a matter that the Court if it in any way can correct, and I don't think the Court can, it should make some endeavor to do that.

THE COURT: All right. I believe the record will speak for itself in those respects.

Let's proceed.

MR. DALE: Right there. Raise your right hand, please.

Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. JUMONVILLE: I do.

MR. DALE: Have a seat, sir.

(Thereupon, the jury of 12 and 4 alternates returned into open court where the following further proceedings were had and evidence introduced, to-wit:)

FRANK JUMONVILLE,

a witness called at the instance of the United States of America in rebuttal, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOOKER:

Q Will you state your full name, please, sir?

A Frank Jumonville.

Q Mr. Jumonville, what business are you engaged in?

THE COURT: Excuse me. May I get that name, please? Frank. How do you spell the last name?

THE WITNESS: (Spelling) J-u-m-o-n-v-i-l-l-e.

THE COURT: All right.

BY MR. HOOKER:

Q What business are you engaged in?

A We are in the rental equipment business, subcontracting and so forth.

Q How long have you been in that business? Speak a little louder.

MR. BERKE: What business is he in?

MR. HOOKER: The equipment rental business.

A Approximately 15 years.

Q Where do you reside?

A In Plaquemine, Louisiana.

Q How far is that from Baton Rouge?

A About 13 miles.

Q What is the name of your company, Mr. Jumonville?

A It's General Fabricators, Incorporated.

Q General Fabricators?

A That is right, sir.

Q And you say you lease and rent equipment of various kinds?

A That's correct, sir.

Q What kind of equipment?

A Oh, trailers, trucks, heavy equipment, cranes and so forth.

Q Equipment used in connection with the contracting business?

A Construction, that's right.

Q How many people do you employ?

A We keep about 25 on the payroll all of the time.

Q Sir?

A Keep about 25 total employees on a year-around basis.

Q Are any of those people that you do employ--do you have a contract with Local 5 of the Teamsters Union in Baton Rouge?

A Yes, we do; yes, we do.

Q Now, how long have you known Mr. Edward G. Partin?

A Oh, I met Mr. Partin in the early part of 1957.

Q Have you negotiated any labor contracts with him?

A Yes, we have.

MR. BRANSTETTER: May it please the Court, for the record--

THE COURT: Yes, sir.

MR. BRANSTETTER: I want to interpose an objection to any questions being asked this witness other than whether he knows Partin, whether he knows his reputation for truth and veracity in the community and whether or not knowing that he would or would not believe him on oath.

I object to any other question of this witness.

MR. HOOKER: Trying to show his opportunities for knowing him, if your Honor please, when he has seen him. I don't expect to dwell on it at any great length.

THE COURT: Let's proceed.

BY MR. HOOKER:

Q How often do you see him?

A Oh, I guess every couple of months, I imagine, whenever the situation arises that I need him.

Q And have you through the years had business dealings with him?

A Oh, yes.

Q Mr. Jumonville, state whether or not you think you know the general reputation and character of Edward G. Partin for truth and veracity.

MR. BERKE: We object to that, if your Honor please, improper question, has to be in the community in which he lives, if your Honor please.

BY MR. HOOKER:

Q In the community in which he lives?

A Well, his reputation is very good.

MR. BERKE: That is not the answer to the question.

MR. HOOKER: Well.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q Do you think you know his reputation and character for truth and veracity?

A I do.

Q Is it good or bad?

MR. BERKE: Just a minute. He still hasn't stated the proper question.

THE COURT: Restate your question.

BY MR. HOOKER:

Q I will ask you, Mr. Jumonville, if you think you know the general reputation and character of Edward G. Partin in the community in which he lives on the question of truth and veracity?

MR. BRANSTETTER: May it please the Court, the question is not if he thinks he knows, this is an expert witness under the theory of evidentiary proceedings, he has to ask him if he knows.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Answer the question, please, sir. Do you think you know it?

A Yes, I do.

Q Is it good or bad?

A I think it's excellent.

Q From it is he or not entitled to full faith and credit on his oath in a court of justice?

A Indeed, yes, sir.

MR. HOOKER: That's all.

CROSS EXAMINATION

BY MR. BERKE:

Q How long did you say you knew Mr. Partin?

A Since early in '57.

Q Did you know about Mr. Partin before 1957?

A No, sir, I can't say that I did.

Q Since 1957 have you visited in his home?

A No, sir, I haven't.

Q Have you visited in any of the homes of his neighbors?

A No, sir, I can't say that I have.

Q Your dealings with him is strictly in the renting of equipment and the union paid the bills?

A I beg your pardon?

Q In the renting of the equipment, is that the business relations you had with him?

A No, sir.

Q What is your business relations with him?

A Strictly as an employer and union negotiator, that's it.

Q I see. In other words, in the negotiation of labor contracts?

A That's correct, sir.

Q Is that the extent of your negotiations with him?

A That is the extent of it.

Q During the period of time that you knew him, sir, did you know that he had been indicted for forgery?

A Yes, sir.

Q And did you also know that he had been indicted for perjury?

A That's correct.

Q Did you also know that he is under a 26-count federal indictment charging stealing and embezzlement and conversion of union funds that didn't belong to him?

A No, sir, I didn't.

End Tk 19
Tk 20 fls.

Q You didn't know he was under a United States 26-count indictment?

A No, sir.

Q Would that have made any difference to you, sir, in whether or not you would think that a man of that type has good character if you knew that?

A That is not the question he was asking.

Q But I am asking you now, sir. I know what you told Mr. Hooker. But now you answer me, sir.

A All right, would you ask me again?

Q Had you known in addition to what you have already said you knew that he was also indicted on a 26-count federal indictment charging stealing, embezzlement, and conversion of funds, in a 26 different counts, would you still have the same opinion of Mr. Partin?

A I think I would, yes, sir.

Q All right, did you know that in September 1962 that he was being held for a period of time without bond on a kidnapping charge?

A No, sir, I didn't.

Q You didn't know that?

A No, sir.

Q Now if you knew that a man had kidnapped children --

MR. HOOKER: (Interposing) We object to that, if your Honor please. It has already been shown that that

case was dismissed. No substance to it at all.

MR. BERKE: If your Honor please --

THE COURT: (Interposing) Well, sustain the objection to the form of the question.

MR. BERKE: All right.

BY MR. BERKE:

Q If you had heard, sir, that Mr. Partin was indicted for taking children that do not belong to him, and concealing them for a long period of time until he was in jail without bond and then to make a deal to get out on bond, he produced the children, would you still say that a man of that character --

MR. HOOKER: (Interposing) We object to that as being wholly unsupported by the evidence.

MR. BERKE: That was proven, if your Honor please.

THE COURT: You may ask him.

BY MR. BERKE:

Q I will ask you if you knew that, sir, would you still say that a man of that kind would be entitled to full faith and credit on his oath in a court of justice?

A Most certainly would.

Q You would?

A Most certainly would.

THE COURT: Of course, ladies and gentlemen, you will observe the same instructions I gave you this morning,

that statements of counsel in this respect would not be accepted as evidence in the case.

BY MR. BERKE:

Q Did you know that Mr. Partin in the State of Alabama had been indicted for manslaughter?

A No, sir, I didn't.

Q Now if you knew that he had run over and killed a serviceman and left the scene of the accident, and if you knew that he was indicted for that charge --

THE COURT: (Interposing) Now, that was not --

MR. BERKE: (Interposing) Would you still --

MR. HOOKER: (Interposing) We object to that.

THE COURT: Sustain the objection. You can ask him about if he knew whether he was indicted for that.

MR. BERKE: All right.

BY MR. BERKE:

Q If you knew that he was indicted and charged with manslaughter in killing of a serviceman and leaving the scene of the accident, would you still give him full faith and credit on his oath in a court of justice?

A With my experience with Mr. Partin I would have to say yes.

Q Just answer the question, you would still do it?

A Yes.

Q In spite of the fact that he had that charge on

him?

A Yes.

Q All right, sir. Now, sir, how many different negotiations have you had with Mr. Partin? You say you are limited to time that you negotiated contracts, how many different contracts have you negotiated with him?

A Four to my memory. There has been other meetings that we discussed other, you know, other potential contracts, yes.

Q But all of your relationships with him has just been strictly your labor contracts and organizational work of your employees?

A Basically yes. Basically yes.

Q Do you know where he lives?

A No, I can't say that I do.

Q Have you ever visited out in his neighborhood?

A I don't know where he lives. I don't know where his neighborhood is.

Q All right. Have you ever discussed his difficulties, his troubles, his various indictments and other things that he has had with any neighbors in his community?

A No. Read a little something in the paper every now and then and talked about it, but that had no reflection on the way I was working with the man at all. I mean, I just --, that is just hearsay as far as I am concerned, I know nothing

about it.

Q In other words, many of these things that I have talked to you about you noticed that in the paper?

A Some, yes.

Q Now you have discussed it with anybody in his community?

A Well, it would be impossible not to discuss it.

Q Have you discussed with any neighbors or members of his community about his general character and reputation and if so, who?

A Well, practically everybody I run into would be rather difficult in a town the size of Baton Rouge not to discuss it with someone. I mean, it is all over the front pages.

Q Well, everything you saw in the front page was not very complimentary, was it?

A I didn't say that it was.

Q All right, was it complimentary?

A I wouldn't think so, no.

Q But in spite of that you would still say that you would believe him on his oath and he had a good character and reputation for truth and veracity?

A Mr. Partin's association and all dealings we have ever had were as such of a dealings with any gentleman as I have ever had in my life.

Q So that is in his dealings with you?

A That is correct.

Q Now you don't know how he has dealt with his members or other people that he did not have business relations with, do you? Or you wouldn't know about those things, would you, sir?

A Well, his members seem to like him very much. I don't know about anybody else, to be real honest with you.

Q You don't know anything about the various charges growing out of this indictment from members of the union, do you?

MR. HOOKER: We object to that.

THE WITNESS: No. No more than hearsay.

BY MR. BERKE:

Q Now, you said these four meetings that you had with Mr. Partin, they covered a period of how many years?

A I said four meetings where we actually signed contracts. I have seen Mr. Partin, as I said, probably on the average of once every two or three months since I have first known him. It is very hard to run through 16 or 17 Teamsters year in and year out or on a permanent basis and not run into Mr. Partin occasionally.

Q How many years per contract would you negotiate for?

A We have signed Building Trades agreement in Baton

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A We have signed Building Trades agreement in Baton

Rouge and the time comes to resign and the regular Building Trades work, we signed Mr. Partin along with our normal Building Trades contract. There have been other situations, other jobs that we have attempted to negotiate and I have discussed that with Mr. Partin on numerous occasions, numerous occasions.

Q Now your contracts run for how many years?

A Normally the contracts will run for 2-year Building Trades. Normally.

Q So about every two years you would sit down in earnest and renegotiate a new contract?

A Well, I guess you could say that although we are too small to really negotiate a contract the way you --

Q (Interposing) So, you accept what the trade area takes?

A That's correct. That's correct.

Q So did you yourself negotiate any of those contracts with Mr. Partin?

A No, we discussed it. We discussed them to clarify points on them such as that so I would know how to proceed with my business. That is basically it.

Q So actually the contracts were negotiated by a committee?

A That's right.

Q Representing the management and a committee

representing labor?

A That is correct.

Q And did you sit in on those conferences?

A No.

Q But you accepted whatever the results of those meetings were?

A That is correct.

Q How many hours would you say now you spent with Mr. Partin?

A Do you mean since I have known him?

Q Yes, sir.

A I would be afraid even to guess at that.

Q How about per meeting, would you have any way of knowing that? I'm not trying to pin you down. I just want to know if you know.

End 20
20a tls

A As much as three or four hours at a time. Sometimes on 10 or 15 minutes.

MR. BERKE: That is all.

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q I very frankly didn't get your name. I apologize. Would you tell me what it is.

A It is Frank Jumonville (spelling) J-u-m-o-n-v-i-l-l-e.

Q That is almost as bad as Branstetter, isn't it?

A I beg your pardon? I didn't hear you.

Q Do I understand your testimony to be confined insofar as Mr. Partin is concerned and his truth and veracity is concerned to your individual dealings with him, is that what you are testifying about?

A Would you repeat that, please?

Q Your statement that you would believe Ed Partin, is it based upon your individual dealings with Mr. Partin?

A Well, basically mine, but we do an awful lot of subcontract work for large contractors, very large contractors, and I have seen his dealings with them.

Q We do have trouble hearing you. It may be the noise outside. I don't know.

A But most of the contractors I know, I mean they believe him and trust him. I mean I have never heard anything bad about him in his dealings, I have never known him

to tell a lie to anyone. I have never had anyone to tell me he ever lied to them about anything.

Q Do you know of a project that was conducted some time back known as Tidewater Construction Company?

A No, I never heard of Tidewater Construction Company.

Q Never heard of it? Did you ever perform any subcontracting work for Tidewater Construction Company?

A I never heard of the company.

Q Are they part of the negotiating group that negotiated the contract that you spoke of previously?

A I have never heard of Tidewater Construction Company.

Q Now, you state that you live about 13 miles from Baton Rouge, how far do you live from where Mr. Partin lives?

A I don't know where Partin lives. I imagine he lives in Baton Rouge, though.

Q Do you know what his reputation is amongst his neighbors in the neighborhood in which he lives for truth and veracity?

A I repeat, I don't know where the man lives.

Q Well, then you are basing your questions on your business associations, your answers, with Mr. Partin, your statements?

A Basically, yes.

End Tk 20A
Tk 21 fls.

MR. BRANSTETTER: Could I have Exhibit 237 for identification?

THE COURT REPORTER: Your Honor, would the witness spell the name of his home town?

THE WITNESS: (Spelling) P-l-a-q-u-e-m-i-n-e.

MR. BRANSTETTER: Could I also have the preceding one?

MR. DALE: 236.

A I don't have my glasses with me.

Q Without your glasses can you see the printing or pictures?

A I can see the large printing and the picture, yes.

Q Can you see the various headlines of the photostatic copy of the paper there?

A Yes, uh-hmm.

Q Would you look at those and see if you have heard about the instances there mentioned?

MR. HOOKER: We object to that, if Your Honor please.

THE COURT: Let him answer.

A What did you ask me?

Q Have you heard about the instances? I am trying to let you look at it and see if you have heard it without telling you what is there, that is all.

For example, on the picture have you heard about

the instance there mentioned?

A No, I can't read what it says, to be honest with you.

Q Have you heard about the instance of the taking of some children by Mr. Partin?

MR. HOOKER: We object to that.

THE COURT: That matter has been covered. Sustained.

BY MR. BRANSTETTER:

Q I will hand you, I believe there's 14 pages of typed material single spaced, already entered as exhibit for identification 237, and I will ask you to look at those. I don't want you to take a lot of time but just so you can acquaint yourself with the pages there and the material contained on them, do it as rapidly as you possibly can, and I would ask if you have heard about the matters contained in those statements there written on those pages.

MR. HOOKER: I'm afraid he is like I am, he can't read, his arms are not long enough.

THE WITNESS: That is about right. Did you want me to go all the way through this thing?

Q Just go through it as hurriedly as you possibly can, I don't want to take any more time than is absolutely necessary.

MR. HOOKER: We submit this is improper cross examination.

THE COURT: State your question.

BY MR. BRANSTETTER:

Q My question is this, would you look at the material consisting of 14 pages handed you, look at those and I am asking you if you have heard about the instances there mentioned in writing in the community where you live or where you have heard about Mr. Partin?

A Yes, I suppose I have some of them so far.

Q All right.

A You can't seriously expect me to read all of this and give you an intelligent answer, can you? Not right off like that, I can't even read the lines that quick, let alone the text.

Q Mr. Witness, I just asked you the question, that is all I am authorized to do.

THE COURT: Let's move along, we have been waiting some time.

BY MR. BRANSTETTER:

Q The instances that you looked at have you heard about those in the community in which you live or the general area where you think that Partin lives?

A I will look, I am looking at the second one up here about a shooting accident, I have heard of that one, yes.

Q You have heard of that one?

A Yes, I have.

Q Had you heard that he had shot himself, Partin had shot himself?

A I just heard it on TV, I didn't pay too much attention to it, to be honest with you.

Q You heard that in the community in which he lives in Baton Rouge?

A The local TV station.

Q In the general area. You heard he shot himself in some motel?

A I don't know where it was.

Q But you did hear it?

A Yes.

Q Now, on the limited number that you looked at there you stated that you had heard of several of the instances there that you did look at?

A I didn't say several, I said I had that one.

Q You had heard of some of them?

A I heard of this one, yes.

MR. HOOKER: We object to that. He said a shooting accident, that wouldn't reflect upon a man's--

MR. BRANSTETTER: (Interposing) He didn't say a shooting accident.

MR. HOOKER: Yes, he did.

MR. BRANSTETTER: No, he did not. I object to this.

THE COURT: Let's proceed. If that affects his opinion.

MR. BRANSTETTER: All right.

BY MR. BRANSTETTER:

Q Now, in all of the things that you heard or the things that have now been brought to your attention, would this in any wise affect your opinion as to whether or not Ed Partin could be believed on oath in a court of law?

A Mister, I've been knowing this man seven years and I have never known him a liar, I never heard anyone said he had lied. I don't think that anything you could tell me that would say that he would lie.

Q Not that I could tell you, you would say that?

A I don't think so, I really don't.

Q You don't?

A I mean of this--, he is just not that kind of man.

Q Do you know whether or not he takes care of his family?

A I don't even know he has a family.

Q You don't even know if he has a family?

A No, I don't.

Q You don't know whether he has any children or not?

A No, I don't.

Q You don't know whether he is married or not.

A I don't.

Q You don't know where he lives?

A No.

Q The specific place where he lives?

A I don't.

Q You don't know whether he is registering in hotels with women not his wife?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

Q Well, you don't--, excuse me, I withdraw that. Your information then is limited to the matters that you testified about with reference to the contract.

A And contractors, yes, that's as far as I can tell you.

Q If you heard that Mr. Partin did not take care of his family, was out with others while he was still married, had been indicted for perjury, had been indicted for stealing union funds, for stealing a union car, a 26 separate count federal court indictment, would this have anything to do with whether or not you would give him full faith and credit on his oath in a court of law?

MR. HOOKER: We object to that on the ground it embraces matters not in evidence and offenses for which he has been fully acquitted.

THE COURT: Sustain the objection.

MR. BERKE: If Your Honor please--

THE COURT: (Interposing) To the form of the question.

MR. BERKE: I think the Court should instruct the jury to disregard that. We know he has not been acquitted, the indictments are still--

MR. HOOKER: (Interposing) The perjury indictment he was acquitted of.

MR. BRANSTETTER: He was not acquitted, may it please the Court.

MR. HOOKER: Indictment dismissed.

THE COURT: Let's move along. He can answer.

BY MR. BRANSTETTER:

Q State whether or not--

THE COURT: (Interposing) Without repeating the question he may answer whether or not it affects his opinion.

A I don't, the fact that he has been arrested or indicted--

Q (Interposing) Just answer the question if you will, please.

A Well, re-phrase the question.

THE COURT: If you heard that information would that affect your opinion?

THE WITNESS: Certainly not.

MR. BRANSTETTER: It would not affect your

conclusions? That's all.

THE COURT: All right.

MR. HOOKER: That's all.

REDIRECT EXAMINATION

BY MR. HOOKER:

Q You wouldn't judge a man's character just because he had been charged with something.

MR. BERKE: Hold it just a minute.

THE COURT: Sustain the objection.

MR. HOOKER: All right. Stand aside.

THE COURT: You may be excused, sir.

(Witness excused.)

MR. HOOKER: Call Mr. Bennett.

MR. SILETS: Your Honor, if it please the Court, I move that the entire testimony of this witness be stricken inasmuch as he was not testifying of his knowledge of the reputation in the community in which the witness Partin lived but only from his own personal dealings with the individual.

THE COURT: Overrule that objection.

MR. HOOKER: State your full--, excuse me.

MR. DALE: Stand and raise your right hand, please. Do you solemnly swear that the evidence you shall give in this case shall be the truth, the whole truth and nothing but the truth, so help you God?

MR. BENNETT: Yes, sir.

MR. DALE: Have a seat.

DONICE BENNETT,

a witness called at the instance of the United States of America, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOOKER:

Q State your full name, please, sir.

A Donice Bennett.

Q Where do you live, Mr. Bennett?

A 6633 Lacka Drive, Baton Rouge, Louisiana.

Q What business are you in?

A I am a Teamster.

Q What position do you hold with the Teamsters Union in Baton Rouge, Louisiana?

A I am president.

Q How long have you been president?

A Since November of '63.

End 21
21 A fol.

Q What position did you hold prior to that?

A I was vice president for three years prior.

Q Is that an elective position, both of them?

A Yes, sir.

Q You are elected by the members of the union?

A Yes, sir.

Q How long have you known Edward G. Partin?

A Since December of '56 when I joined the local.

Q What connection did he have with the union in December of 1956 when you joined it on down to the present?

A He is business agent, sir.

Q Business agent. Was he elected to that position?

A Yes, sir.

Q And has held it continuously ever since you have been with the union?

A Yes, sir.

Q How frequently do you see him, Mr. Bennett?

A I see him quite frequently.

MR. BRANSTETTER: Now, may it please the Court, again for the record we object to any questions other than this witness' name, residence, and whether or not he knows the general character and reputation of Partin in the community in which he lives, the three questions that we have previously stated.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Well, do you talk with him, have associations with him?

A Yes, sir, I work with him.

Q You work with him. Do you know people, other people, that are his friends and know him?

A Yes, sir.

Q Do you think you know his general reputation and character in the community in which he lives for truth and veracity?

A Yes, sir.

Q Honesty?

A Yes, sir.

Q Is it good or bad?

A Good, sir, very good.

Q Sir?

A Very good, sir.

Q From it is he entitled to full faith and credit on his oath in a court of justice?

A Yes, sir.

MR. HOOKER: That's all.

CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Bennett, your local union has been in quite a turmoil for a number of years, has it not?

A How long of a number, sir?

Q Sir?

A How long of a number?

Q Well, I say two or three years?

A I'd say a year or a year and a half, maybe, sir.

End 21a
22 fls

Q You say only a year or year and a half?
A Yes, sir, I'd say that long, yes, sir.
Q Of course you know that your union has been investigated by the United States Government, do you not, with reference to Mr. Partin stealing all the funds?
A I know of Mr. Partin stealing funds, no, sir.
Q Did I ask you that? Or did I ask you if you knew that he was investigated by the United States Government and an indictment returned against him?
A I know of the indictment, yes, sir.
Q Do you also know, sir, that on the eve of when the question came about with some of your fellows that so-called on the other side of the fence, Mr. Albin and Mr. Cline, you know them, do you not?
A Yes, sir. They filed charges against Brother Partin pertaining to those counts.
Q And you know that soon as they filed charges that safe disappeared from the union hall, didn't it?
A I don't recall when the safe disappeared, no, sir.
Q You know it did disappear, don't you?
A Yes, sir. It was in the newspaper.
Q And you know that Mr. Partin then said, "Well, can't do nothing about it now. The records are gone."
A I know of him making no such statement, no, sir.
Q Well, you know the records were gone, don't you?

A The safe was gone. They was in the safe. So I assume they were.

Q Now is that the only trouble you know of that he got into, just the 26-count indictment?

A What do you mean the only trouble? What line of trouble?

Q Is that the only indictments or arrests that Mr. Partin has had?

A He has been arrested but I don't believe he has been convicted of anything.

Q Do you know what he has been arrested for? Do you know it is part of his reputation he has been arrested for what now, you tell us.

A Well, he was at one time he was cleared on a charge of assault and battery, I believe, of an incident that happened at the Louisiana Creamery. That is the only one offhand that I can remember.

Q Is that the only case that you know of? Didn't you know it is part of his reputation that he did receive a 15-year sentence some years back?

A No, sir, I didn't.

Q You didn't know that?

A No, sir.

Q That wouldn't make any difference in your testimony, would it? As to whether you would believe him on

oath or not?

A How do you mean that, sir?

Q I mean if you know now, let's assume that he did receive a 15-year sentence for burglary?

A Well, I can testify to what I know of Mr. Partin since 1956.

Q Well, I'm asking you about if you know now and if you were told that he had served a sentence for burglary would your opinion still be the same that you believe him on oath?

A What proof would I have of it that he has, sir, if I'm being told?

Q Well, if I told you --

MR. HOOKER: (Interposing) We object, if your Honor please.

MR. BERKE: No, I have a right, if your Honor please.

MR. HOOKER: That happened when the man was just a boy.

THE COURT: Well, he can state whether or not.

MR. SCHIFFER: If Mr. Hooker wants to testify, your Honor, I think we should give him the opportunity, withdraw the witness, let him take his oath and testify. It is highly improper what he is saying now and he knows it.

THE COURT: He can answer whether or not it would

affect his opinion as to his truth and veracity.

BY MR. BERKE:

Q That is the question I'm asking you, would it affect your opinion as to the truth and veracity if you knew that he did receive a 15-year sentence for burglary?

A No, sir.

Q Would it make any difference?

A No, sir.

Q Would it affect your testimony if you knew that he had been indicted for manslaughter and leaving the scene of an accident, leaving a serviceman dead in the road, would that make any difference to you?

MR. HOOKER: We object to that.

MR. BERKE: If there was indictment to that effect? Would that make any difference to you?

THE WITNESS: No, sir.

BY MR. BERKE:

Q Did you know that he had a forgery charge which is still pending against him?

A Is that pertaining to a withdrawal card? If it is, yes, sir.

Q Do you know that that is still pending against him?

A Yes, sir, since you said something, I do.

Q So if there was a forgery indictment pending that

wouldn't make any difference either?

A I just don't believe he is guilty of it, sir.

Q Do you believe that kidnapping of little children would make any difference on a man's veracity for truth?

MR. HOOKER: We object to that on the grounds that it is shown specifically here in the evidence that there was nothing on earth to that charge and that it was dismissed.

THE COURT: I will allow him to ask him whether it affects his opinion of his truth and veracity.

THE WITNESS: What was the question again, sir?

BY MR. BERKE:

Q You know that Mr. Partin was indicted for kidnapping, do you not? That happened while you were working for him or he was working for you, either way?

A Yes, sir.

Q Now you knew that he was being held in jail without bond on it, didn't you?

A I think he was released on bond.

Q Well, wasn't he held for a while in jail without bond?

A I would assume so, yes, sir.

Q And didn't you know that a deal was made when he would return the children he would be released on bond?

A I didn't know that.

MR. HOOKER: We object to that on the grounds

absolutely no foundation in fact for that statement.

THE COURT: Let's proceed.

MR. SCHIFFER: Your Honor, you heard the District Attorney for Louisiana so testify and it is in the record.

THE COURT: Well, he can ask him.

BY MR. BERKE:

Q Did you know that that is a part of his reputation?

A I know of no agreement made with anyone; no, sir.

Q I'm asking you as a part of his reputation that he was in jail without bond on a kidnapping charge and that later he produced the children was allowed bond, do you know that is a part of his reputation?

A Yes, sir.

Q Now a man that would be charged with kidnapping and taking children away and then produce them in order to get out of jail, would that make any difference to you as to whether or not you would believe a man on oath?

A Was he found guilty of that, sir?

Q I'm asking you, assuming that a man returned the children in order to keep from being in jail without bond on a kidnapping charge, would that make any difference to you?

A I would say if he was found guilty of it, yes, sir.

Q But if he wasn't found guilty, but a man that had returned children on an agreement to get out of jail?

A I know of no one that returned children on agree-

ment to get out of jail.

Q And assuming that he did return these children, I'm talking now assuming that you knew that now which I'm telling you, assuming you did know that, would that change your mind any as to whether or not you believe him on oath?

MR. HOOKER: If your Honor please, we object to that. We think this is manifestly unfair. This is a question of where a man and a wife were involved in domestic situation.

MR. BROWN: I object to Mr. Hooker making speeches to the jury.

THE COURT: Well, he can ask him if that would affect his opinion of truth and veracity.

BY MR. BERKE:

Q Would that affect your opinion as to Ed Partin's truth and veracity if he did the very thing that I say he did?

A Yes, sir, I would say it would.

Q It would affect it?

A Yes, sir.

End 22
22a fls

Q Then if you knew that he did that you wouldn't believe him on oath, would you?

A If I knew that he had done it?

Q If you knew that he had taken children and then made a deal to return children so he could get out on bond?

MR. HOOKER: We object to that as being incompetent.

THE COURT: Sustain the objection as to the form of the question.

BY MR. BERKE:

Q You said that it would affect your opinion on him. Right?

A What would affect my opinion, sir?

Q All right, I have got to ask the question then, if Your Honor please. He is asking. If you knew that he was indicted for kidnapping and that he was being held without bond and that then upon surrender of the children he was allowed bond, and he produced the children, would you under those circumstances still say that you would believe a man on oath?

MR. HOOKER: We are objecting to it on the grounds contrary to the facts.

THE COURT: Well, just a moment. I will let him answer.

MR. SCHIFFER: Let Mr. Hooker go into the record, Your Honor.

THE COURT: I will allow him to answer.

MR. SCHIFFER: Your Honor, I have to offer another objection, for days now it has been going on, I don't know whether the Court has seen it, Mr. Hooker insists upon the jury, ogling in their direction, and I protest that.

THE COURT: Now, gentlemen, let's proceed with the trial.

MR. SCHIFFER: I object to that, Your Honor, he is doing these things persistently. Mr. Neal did it for awhile and he is going back to those things, I want the record to show that.

THE COURT: Just answer whether or not that would affect your opinion as to his truth and veracity.

THE WITNESS: Yes, sir, I would say it would.

BY MR. BERKE:

Q Are you with Local No. 59?

A No, sir.

Q I mean, Local No. 5, excuse me, that other mark there, Local 5?

A Yes, sir.

Q Did Local No. 5 file a suit against Edward Partin enjoining him from handling any of the funds?

A No, sir, not that I know of.

Q Do you mean you are an officer of Local No. 5 and you don't know of a suit that is pending in Federal Court

enjoining Ed Partin from handling any of the cash?

A I think Mr. Partin voluntarily gave up receiving and disbursement of union funds. I know of no charges by the local.

Q Well, Mr. Bennett, don't you know that a suit was filed in the United States District Court and then an injunction was issued by the Court enjoining him from the using of the funds?

A That was on his voluntary basis.

Q I can't hear you.

A That was on a voluntary basis I don't know of any suit.

Q Well, he didn't voluntarily file suit against himself, did he?

A No, sir.

MR. HOOKER: We object to it as repetitious and not supported by the facts.

MR. SCHIFFER: It is right in the record, Your Honor, and Mr. Hooker persists in saying it is not in the record and I ask him to look in the record once in awhile and he will see it in there. He is making these speeches to prejudice this jury. It is about time the Court called him to order, Your Honor.

THE COURT: Proceed.

BY MR. BERKE:

Q You do know of such suit that was filed by the Local No. 5, don't you?

A I know of no suit filed by Local No. 5, no, sir.

Q On or about September 6th, 1962, wasn't it headlined in your local Baton Rouge papers, that in the United States District Court, Judge E. Gordon West, had issued an injunction enjoining him in a civil suit filed by the union from in any way handling any of the union funds that goes into the union?

A The facts that I remember of that or recall of that is that he voluntarily and on his own, he withdrew from receiving and disbursing union funds.

Q Well, don't you know that actually a federal judge, Judge Gordon West, had to issue an injunction?

A I think that the next day in court the judge accepted it.

Q Well, there was a suit pending, wasn't there, by your local union?

A Not that I know of. I know of no suits, sir, no, sir.

End 22A

Tk 23 fol.

Q Well, actually he doesn't handle any of the cash any more, does he?

A No, sir.

Q To refresh your memory, wasn't that suit filed on September the 5th, 1962, and on the following day the injunction was issued?

Now, you are an officer of the union, wouldn't you know that?

A I know of nothing--I mean I know--I don't recall whether it was the next day or when it was, offhand I just can't recall.

Q You mean you don't know how long it was after Local 5 filed this suit that this injunction was issued?

A I know--I don't know of Local 5 filing a suit.

Q On September the 5th, 1962, were you an officer in the union?

A Sixty-two? Yes, sir, I think so.

Q What kind of office did you hold?

A Vice president.

Q I assume you are familiar with the members of your union, are you not?

A Quite a number of them, yes, sir.

Q All right. I will ask you if you recognize part of these as complainants that filed this suit, Aldon Crane, J. D. Soburn?

MR. HOOKER: We object to this. He said he knew of no suits.

THE COURT: Yes, sustained.

MR. BERKE: All right, your Honor.

BY MR. BERKE:

Q In reading off these names of 20 some-odd complainants that still doesn't refresh your memory that they had filed a suit?

A Filed a suit with who?

Q In the United States District Court to enjoin him from the handling of these union funds?

A No, sir, not those names, I didn't recognize either one of those.

Q Well, I only called off two. Do you remember any other parties that filed a suit in behalf of Local No. 5 against Ed Partin?

A No, sir, I don't.

Q Did you have anything to do with the calling of the strike that Mr. Hoffa ordered the pickets to be withdrawn on the Tidewater Construction Company job?

A No, sir.

Q You knew that that was an unauthorized strike called by Mr. Partin, didn't you?

MR. HOOKER: We object to that.

THE COURT: Sustained.

MR. BERKE: All right.

EXAMINATION BY MR. BRANSTETTER:

Q Did you state where you lived?

A Yes, sir.

Q Where?

A Baton Rouge.

Q Where in Baton Rouge?

A 6633 Lacka Drive.

Q Do you know where Ed Partin lives?

A I--he stays with his father.

Q Do you know where Ed Partin lives?

A Yes, sir.

Q Where?

A He stays with his father.

Q Where does his father live?

A I think it's Weller Avenue, I am not sure.

Q Where is that from where you live?

A It's roughly a mile and a half, two miles.

Q Have you ever been at this particular residence where you say his father lives and visited in that house and know that he lives there?

A Yes, sir.

Q When?

A Numerous times. I go there and pick him up, take him there.

Q When have you done this?

A On numerous occasions.

Q When have you done it in the last year and a half or two years?

A Quite a few times.

Q Have you picked him up at various motels, hotels, and other places?

A Yes, sir.

Q I beg your pardon?

A Yes, sir.

Q Many times or few times?

A I'd say a few times.

Q Do you drive him around?

A No, sir. When his car isn't broke down he drives himself.

Q You state these times you have picked him up is when his car is broken down or something?

A Or either he was coming in on a flight.

Q How many times have you picked him up coming in on a flight within the last year?

A Several times.

Q Do you know where he had been?

A No, sir.

Q Did you know what he had been doing?

A No, sir.

Q Did you know whether or not he was charging telephone calls of a personal nature to the Local No. 5?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Have you heard that he was indicted for taking an automobile belonging to the union and selling it for his personal benefit?

MR. HOOKER: We object to that.

THE COURT: Allow him to answer.

A Will you repeat your question, sir?

Q I asked you if you had heard that Partin took an automobile belonging to the union and sold it for his personal benefit?

THE COURT: I will sustain the objection to that. That wasn't the question you asked, you asked if he had been indicted.

MR. BRANSTETTER: I am sorry, I asked him what? I apologize, I didn't understand.

THE COURT: The first question was if he knew whether he had been indicted on such a matter.

BY MR. BRANSTETTER:

Q Go right ahead. Have you heard that he was indicted for taking a union automobile and selling it for his personal benefit?

A No, sir, I don't recall any indictment.

Q Do you belong to any church?

A I am a Presbyterian, yes, sir.

Q Do you know whether Partin belongs to a church?

A No, sir, I don't.

Q Have you heard whether or not he goes to any church?

A No, sir, I haven't.

Q Have you heard whether or not he supports his wife and children?

A How do you mean by "support", sir? I don't think he is living with his wife now.

Q Have you heard in the community of his having been charged with failure to provide and support his children?

A No, sir, I haven't.

End Tk 23
Tk 23A fls.

Q You state that you would believe--did you state that you knew Partin's reputation for truth and veracity in the community in which he lives?

A Yes, sir.

Q Now, have you heard in the community other people say that they would believe him on oath or that they think that they would give him full faith and credit on his oath in a court of law?

A I have heard time and time again, sir, in negotiations and other places that one thing that was good about Ed Partin that his word was his bond.

Q His word was his bond. Now, have you heard that he was indicted by the Federal Government for disposing of records of the union under the Landrum-Griffin Act?

A No, sir, I--

MR. HOOKER: (Interposing) We object to that as not being sustained by any evidence.

THE COURT: That matter has been covered. Let's proceed.

MR. BRANSTETTER: May it please the Court, I have and I am going to abide by the judgment of the Court. I have incidents that I would like to ask this witness about where the witness has made statements that would affect his character running from 1948 up to the present time and I want to ask this witness if he has heard of those incidents;

if the Court is ruling as it did previously that we cannot go into this. I want to ask if he has heard of them. I want to ask him if this would make any difference as to whether or not he would believe the man under oath and I want to begin with the beginning of the questions that were asked. The Court has ruled. I want to know if the ruling is the same.

THE COURT: I don't see how prior to the time that this man knew him--if you want to ask about anything about what he knows about him since he became acquainted with him I will allow you to.

MR. BRANSTETTER: May it please the Court, I don't want to ask anything that he knows about him personally, I want to ask him about his reputation pure and simple.

THE COURT: Well, this witness is here.

MR. BRANSTETTER: We except to the ruling on this witness as well as the other witness.

MR. BROWN: That exception may go to all defendants.

THE COURT: Anything further?

MR. HOOKER: I want to ask just one other question.

MR. BRANSTETTER: Excuse me. Could I ask this witness one more question? Could I have Exhibit 237, please?

BY MR. BRANSTETTER:

Q I hand you what has been marked for identification as Exhibit 237 consisting of 14 single-spaced pages of material, ask you to look at it and ask you if you heard

about the incidents mentioned in those 14 pages in the community in which he lives, Ed Partin?

MR. HOOKER: We object to it as improper cross examination.

Q And I want to--then I want to read each one and ask him--I am merely trying to conserve time by handing it up in this manner.

A I read something in the paper about No. 1 here.

Q As rapidly as you possibly can, just look right through it.

THE COURT: Let's move along.

A I am supposed to read this, sir, and then tell him if I know of anything about it?

THE COURT: Well, state whether or not these matters affect your opinion as to his truth and veracity.

A I read about the shooting, I believe that covers-

Q (Interposing) Well, did you hear that Ed Partin shot himself in the community in which he lives?

A Yes, sir, that's what I heard, it was an accidental shooting.

Q Did you hear that it was accidental or that he shot himself intentionally?

A I heard it was an accidental shooting.

Q I asked you what you heard. Did you hear it was accidental or that he intentionally shot himself?

A Are you asking me?

THE COURT: Well, now, gentlemen, aren't we getting off the issue? The issue here is whether this man knows about his character for truth and veracity.

MR. BRANSTETTER: I have been making every effort, may it please the Court, to follow United States vs. Alford specifically one, two, three, 260 Federal 2d 135, particularly Page 150.

THE COURT: Well, we have been waiting quite some time, gentlemen. Let's move along.

A Well, would someone explain to me what I am to do with this?

THE MARSHAL: Court is in session, please.

BY MR. BRANSTETTER:

Q I asked the question, that is all I am authorized to do.

A Well, would you repeat the question?

Q I asked you if you would look at the 14 pages of single-typed material handed to you, read them and then I want to ask you if you heard of those matters in the community in which Ed Partin lived?

THE COURT: Gentlemen, now, we are not going to take time to read any document while we all sit here and wait.

MR. BRANSTETTER: Well, would you, Mr. Marshal, hand it back? Of course, may it please the Court, I agree

it's very time consuming and apologize that it may be, but the method of procedure, as I understand, would be appropriate and we except to the Court's ruling in both respects.

End Tk 23A
Tk 24 fls.

Bennett -

BY MR. HOOKER:

Q Mr. Bennett, you were asked about that 26 count indictment, since you are president of the union, did the union have full investigation of that?

MR. SCHIFFER: Objected to, Your Honor.

THE COURT: Yes, let's stay on the issues. We are in rebuttal testimony now, let's stay on the issue.

MR. HOOKER: We have no further questions. We have other character witnesses but I understand--

MR. BRANSTETTER: May it please the Court, the Court has ruled on this without counsel making any statement I would assume.

THE COURT: Yes.

MR. HOOKER: Well, it is the rule that we are limited to three?

MR. BERKE: Just a minute, if Your Honor please.

THE COURT: The Court feels that we should follow the rule and limit to three character witnesses. That is the rule of the court and has been some time. I relaxed that same for the defendants but I think we should adhere to it.

MR. HOOKER: The government will not be permitted to call any further witnesses?

THE COURT: That's correct.

MR. HOOKER: Stand aside, Mr. Bennett.

(Witness excused.)

MR. NEAL: We had this morning out of the presence

of the jury, we had taken up a matter of our witness we propose to offer, Mr. Clarence Evans.

THE COURT: I will sustain the objection to that. I don't believe that--

MR. NEAL: I will tell Mr. Evans to be excused.

THE COURT: I don't believe that would be rebuttal.

MR. HOOKER: Call Dr. Rasor.

MR. ALEXANDER: What is this witness' name?

MR. HOOKER: Rasor, (Spelling) R-a-s-o-r, I believe that is the way he pronounces it.

MR. BRANSTETTER: May it please the Court, we might not too early to have a recess at this time, also request a voir dire as the Court has ruled previously on this sort of procedure.

THE COURT: Well, let's proceed now at this time. Not time for recess.

MR. HAGGERTY: May it please the Court, we have found voir dires that they were highly profitable before not only preventing error but enabling to spend less time.

THE COURT: I believe we can start and see where we go.

THE CLERK: Raise your right hand, please. Do you solemnly swear the evidence you shall give in this case shall be the truth, whole truth, nothing but the truth, so

help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

ROBERT WILLIAM RASOR,

a witness called in rebuttal at the instance of the United States of America, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOOKER:

Q Doctor, state your full name.

A Robert William Rasor.

Q Dr. Rasor, with what institution are you presently connected?

A United States Public Health Service Hospital, Lexington, Kentucky.

Q How long have you been engaged in the practice of medicine?

A About twenty-two and a half years.

Q Would you mind stating what your formal education was, your medical education?

A I have an M. D. degree from the University of Colorado, 1941.

Q And how long have you been at the United States Government Hospital at Lexington, Kentucky?

A I have been there on two occasions. The last time

I arrived there in July of 1962. I have been there since. I was previously there from 1951 to 1957. We have a similar hospital in Fort Worth, Texas. I have been there on two occasions.

Q That is similar government hospital at Fort Worth,Texas?

A A similar hospital.

Q Did you examine a man who was introduced to you, identified to you as being Edward G. Partin?

A Yes, I did.

Q And when did you first see Mr. Partin? Bring him in please, Mr. Marshal. When did you first see Mr. Partin?

A I first saw Mr. Partin in February, February 21st. At about eight p. m.

MR. SILETS: Which year?

BY MR. HOOKER:

Q Where did you see him?

A At the United States Public Health Hospital--

MR. SILETS: (Interposing) Could we have the year?

MR. BROWN: Your Honor, may we have the year?

MR. HOOKER: 1964.

THE COURT: Let the witness state..

BY MR. HOOKER:

Q How long did he remain at the Public Health Hospital at Lexington, Kentucky?

THE COURT: Let's let the witness state for the record what year it was.

THE WITNESS: 1964.

BY MR. HOOKER:

Q How long did he remain there at the hospital?

A He remained there until the following day, February 22 about 2:15.

MR. BRANSTETTER: May it please the Court, there is some question as to whether or not this is proper rebuttal, that we would like to present--

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q Is this the man that you saw and examined?

A Yes, it is the man.

MR. HOOKER: I want to state for the record if Your Honor please, that Mr. Edward G. Partin is now standing in the courtroom.

THE COURT: All right.

MR. HOOKER: You can be excused, Mr. Partin. Thank you, sir.

BY MR. HOOKER:

Q What does the Government Hospital, Public Health Service Hospital at Lexington, Kentucky, what does it specialize

in, Dr. Rasor?

A It's primarily for the treatment of individuals addicted to narcotic drugs.

Q Narcotics, did you make an examination of Mr. Partin?

A Yes, I did.

Q Will you state to His Honor and these ladies and gentlemen of the jury the extent of that examination?

A Mr. Partin was examined--

MR. HAGGERTY: (Interposing) Just a moment, may it please the Court, I object to it as improper and I don't think there is anything here that justifies this testimony as rebuttal.

THE COURT: Overrule the objection.

MR. BRANSTETTER: May it please the Court, we asked this court at the very early stage of the proceeding to appoint a competent medical psychiatrist to sit in this courtroom and observe the witness. Not a government witness.

THE COURT: Overrule the objection.

MR. BRANSTETTER: We object to it.

BY MR. HOOKER:

Q What was the extent of your examination of him, Doctor?

A Mr. Partin was examined, a history was taken from

him. He was examined for signs of drug addiction, for needle marks. He had certified urine specimens done while he was in the hospital for addicting drugs. He had an electro-encephalogram or a brain wave performed and he had a nalline test done. He was seen by myself and other members of the hospital and a consultant.

Q Was he seen among others, by Dr. Isabel?

A He was seen by Dr. Harris Isabel.

Q State whether or not you have with you the full record of his time, what was done, his treatments, or rather his examination at the hospital?

A I have the record of his hospitalization.

Q Does that record include any photographs?

A It includes photograph of the nalline test that I referred to.

Q What is the purpose of the photographs?

A The purpose is to show changes in the size of the pupil when this drug is given and brings out the signs of withdrawal, signs if a person is on addicting drugs.

Q Is that an accepted test for the purpose of determining whether or not a man is addicted to the use of narcotics?

A Yes, this test gives information that the individual is addicted to drugs at the time.

Q Would you let me see the hospital record, Doctor,

that you have with you?

A Yes.

MR. HAGGERTY: May it please the Court, I object to any further testimony of this nature. It is not our contention and there is no proof in the record. He said he was on drugs in 1964. We claim that he was on drugs in 1960, '61 and '62.

THE COURT: Overruled.

MR. HAGGERTY: Now, what his present condition is has no bearing on the testimony of Partin.

THE COURT: Overrule the objection.

BY MR. HOOKER:

Q In the light of that objection, Doctor, did you see any evidence in the way of marks or anything else that indicated that this man, Edward G. Partin, had ever taken narcotics?

A We found no needle marks on him to indicate scars where he had been injecting narcotic drugs.

MR. SCHIFFER: May I ask one preliminary question at this point, Your Honor, as to whether drugs cannot be taken in some fashion without a needle?

THE COURT: You may cross examine. Let's proceed.

BY MR. HOOKER:

Q Does the use of narcotic needle for the taking of narcotic drugs, state whether or not it leaves a particular

kind of scar?

A Yes. Individuals who take drugs repeatedly by needles usually leave characteristic scars over their veins.

Q Do you mean scars that can be distinguished from other type of scars?

A Yes.

End 24

Tk 25 fol.

Q Did you examine this man's entire body in the nude?

A Yes.

Q Did you find any evidence at any time of him having taken narcotic drugs?

A No, we found nothing to support this.

Q Did any of the tests, that is, the electroencephalograph, which I understand is a test of the brain waves --

MR. BRANSTETTER: (Interposing) Well, I object to what counsel understands.

BY MR. HOOKER:

Q Well, is that correct?

MR. BRANSTETTER: He may ask him the appropriate question.

BY MR. HOOKER:

Q Is that what it is?

A The encephalogram is a test, is a brain-wave test that does show irregularities where people are on toxic drugs.

Q Did the test in Mr. Partin's case --

MR. BERKE: (Interposing) Just a minute. We want to see if this man made it. I don't think he is a neurosurgeon. Let's find out if he is testifying from his own knowledge or from someone else's knowledge. I think we are entitled to know that now before he gives the answer.

THE COURT: Well, he can say whether or not.

BY MR. HOOKER:

Q Was it made there at the hospital?

A It was made at the hospital.

Q And you --

MR. BERKE: (Interposing) Just a minute. Just a minute. I think we are entitled now to know if this man made it, if your Honor please.

THE COURT: Well, ask him.

MR. BERKE: Can you answer that? Did you make that test?

THE WITNESS: No, I did not make it.

BY MR. HOOKER:

Q Was it made under your direction?

A It was made at the request of Doctor Isbell.

Q And for your use and benefit?

A Yes.

Q And did you examine the report on it?

A Yes.

Q And do you have the report with you?

A Yes, sir.

MR. BERKE: We want to object to that, if your Honor please.

BY MR. HOOKER:

Q Is that --

THE COURT: (Interposing) Overrule the objection.

Dr. Rasor - Direct

BY MR. HOOKER:

Q Is that the type of report that is usually made by a hospital in the regular course of its business?

A Yes.

Q And is it the regular course of the business of the hospital to keep records such as you have?

A Yes.

Q All right, sir. Hand me the record.

MR. BERKE: Just a minute.

MR. HOOKER: Hand me the record.

MR. BERKE: If your Honor please, we want to object to that just on the basic rule of evidence. This denies the defendant of the very reason for it, denies the defendant the right of cross examination, all this witness says is this is what somebody else said.

THE COURT: Well.

MR. BERKE: If your Honor please, there's no showing that the people are not available, it was just done a few days ago and we want to object to any testimony that this man is trying to say that somebody else did in his report and his report showed so and so. This Court would not allow us to even do it in a civil suit where the people are available, and we think definitely in this kind of a case that is not competent evidence.

THE COURT: Well, I would not admit the test

itself. Sustain the objection.

MR. HOOKER: Well, may I offer the hospital record, the full record of the hospital for identification?

MR. BERKE: For identification.

THE COURT: Allow it for identification.

MR. HOOKER: Sir?

MR. BERKE: For identification will be all right.

MR. HOOKER: Pass it to me, Doctor, pass it to the Clerk.

Now, if your Honor please, that is a permanent record of the hospital. Without objection I would like to be able to supply a photostat after the conclusion of this trial.

THE COURT: All right.

MR. HOOKER: We have a photostat here but until the conclusion of the trial we will leave the original in the record.

MR. DALE: 238, your Honor.

(The hospital record referred to above was marked Government's Exhibit No. 238 for identification only.)

BY MR. HOOKER:

Q Now, Doctor --

MR. BERKE: (Interposing) May we see it?

MR. HOOKER: Yes, sir.

THE COURT: Can you proceed?

MR. BROWN: Your Honor, could I ask for a recess at this time?

THE COURT: Let's complete with this witness, gentlemen. We didn't start until 1:30. Unless there is a personal reason.

MR. BROWN: Yes.

THE COURT: All right, sir, we will then. Take a 10-minute recess. In the meantime, Doctor, do not discuss your testimony, allow no one to talk with you.

(Thereupon, at 2:45 o'clock, p.m., a recess was had.)

End 25
25a fls
25a

BY MR. HOOKER:

Q Doctor, I neglected to ask you what is your position with the Public Health Service at Lexington, Kentucky?

A I am the medical officer in charge of the hospital.

Q Now, what was the date that you stated that Mr. Partin reported?

A February 21st, 1964.

Q That is this past week or so back?

A Yes.

Q Did he report voluntarily?

A He came to the hospital voluntarily.

Q State whether or not you require any agreement on the part of the patient before you conduct an examination

of this sort?

MR. HAGGERTY: Object to that as incompetent, irrelevant, and immaterial.

THE COURT: Sustained.

BY MR. HOOKER:

Q Anyway he did report voluntarily?

A Yes.

Q Now, in addition to the -- did you say he was given the nalline test? Does this file contain the photographs taken in connection with that test?

A Yes.

MR. HOOKER: If your Honor please, we would like to exhibit that portion of it, if we may.

MR. HAGGERTY: Object to any portion of it.

THE COURT: Sustain the objection.

MR. BERKE: Since he didn't make it.

THE COURT: Sustain the objection.

BY MR. HOOKER:

Q What is the purpose of taking the photographs of the eye?

MR. HAGGERTY: Object.

MR. BROWN: He just testified five minutes ago before recess.

MR. HOOKER: No, sir, I didn't ask him.

MR. HAGGERTY: The doctor has testified to it,

if your Honor please.

THE COURT: I believe he did.

MR. HOOKER: Well, if he has I have forgotten the answer.

MR. HAGGERTY: Then I suggest that Mr. Hooker refer to the records. That doesn't permit him to ask the same question when the testimony is already in.

BY MR. HOOKER:

Q The photographs of the eye, what did they indicate with reference to narcotic addiction?

MR. HAGGERTY: I object to that, it's already in the record.

End 25a
26 fls

THE COURT: Overruled.

A Indicated that there was no evidence that this man was on narcotic drugs.

MR. BERKE: Just a moment, if your Honor please. He is asking now for the very thing I understood the Court to sustain the objection on. Continuing questioning. Now, he is getting the answers in.

THE COURT: No, sir, I overruled the last objection.

MR. BERKE: Was this the results of the test, if your Honor please?

THE COURT: No. It was the doctor's evaluation of the test.

MR. BERKE: All right.

BY MR. HOOKER:

Q Now, in addition to that Nalline Test what is the other test, what other test did you give him?

MR. HAGGERTY: Object to it as having been asked and answered. I can give a whole list of them. I wrote them down. And I got my information from the doctor.

MR. HOOKER: No, sir, there are some he hasn't stated, if your Honor please.

THE COURT: Allow him to proceed.

MR. BERKE: That he gave him.

MR. HOOKER: Go ahead, Doctor.

THE WITNESS: He had urine examination, brain wave, physical examination, and observation.

Q What do you look for in connection with a physical examination and observation when you are undertaking to determine whether or not a man is a narcotic addict?

A You look for needle marks on the physical examination, you look for signs of absence or signs of withdrawal as we call them, these are yawning, runny nose, runny eyes, goose flesh. Things like this what we call withdrawal signs.

Q Did you observe any of those conditions in Mr. Partin?

A No, we did not.

Q Well, now, you say withdrawal signs, you mean taking a person who is addicted to narcotics off of narcotics?

A When they are taken off of narcotics these are the signs that they show. These are what they call "kicking the habit." This is withdrawal signs that patients show when they do not have drugs.

Q And how long a period of time does it normally take to ascertain that? How much period of time this withdrawal?

A This will usually start in four or five hours after they have had their last shot.

Q Do you make any examination of the individual when he comes into the hospital for the purpose of determining of whether or not he has any narcotics in his possession?

A Yes.

Q Was that done in Mr. Partin's case?

A Yes.

Q Did he have any narcotics in his possession?

A He did not.

Q Did he show under these various tests that you gave him any signs of withdrawal as if he had been subjected--been taking narcotics?

A No.

Q Now, is there any preparation that is given that speeds up and simulates the withdrawal?

A There is the Nalline Test.

Q Nalline?

A Yes, sir.

Q And under that test did he show any signs?

A He did not.

Q Now, Doctor, I believe that in addition to the treatment of people addicted to narcotics as in this hospital, have you not also specialized in other fields of medicine?

A This is my major field of interest. I am a psychiatrist. I have taken my--had my training in this area. We consider drug addiction an area in mental health and this is my specialty.

Q During the time that Mr. Partin was in the hospital at Lexington, Kentucky, did you see him and observe him?

A Yes, I did see him.

Q Did you talk to him?

A Yes, I talked to him.

MR. BRANSTETTER: May it please the Court, did I understand that the witness is qualified now as a psychiatrist?

THE COURT: Let's proceed. We will determine that.

MR. BRANSTETTER: May it please the Court, I don't know how to object to these questions unless I know whether or not that has been done.

THE COURT: I don't know how to rule on objections unless they are made.

MR. BRANSTETTER: I object to that, any question with reference to psychiatry until he qualifies him, then it will be all right.

THE COURT: Overruled.

End Tk 26
Tk 27 fls.

Q What I want to ask you, Doctor, during the entire time that Mr. Partin was there under these tests and under your observation did you observe anything abnormal about him?

MR. SILETS: Objection, your Honor.

THE COURT: Yes. I sustained that objection.

BY MR. HOOKER:

Q Did you observe anything about him that indicated that he had ever been addicted to the use of narcotics?

A No.

MR. HOOKER: That is all.

MR. SILETS: May I have that report?

MR. HOOKER: Yes, sir.

MR. SILETS: Thank you.

MR. HOOKER: We would like, if your Honor please, to offer the report in evidence.

MR. SILETS: Objection, your Honor.

MR. HOOKER: So the jury can see it.

THE COURT: I believe I should sustain the objection.

MR. SILETS: Of course, your Honor, my basic objection is that this is not proper rebuttal.

THE COURT: I sustained the objection.

CROSS EXAMINATION

BY MR. SILETS:

Q Now, Doctor, may I inquire how old you are?

A Fifty-three.

Q Have you ever practiced medicine outside of the employ of the United States?

A No.

Q Now, you said that Mr. Partin had appeared at the hospital at Lexington voluntarily. Was he alone?

A No.

Q With whom was he?

A He was brought to the hospital by Mr. Ellis Almond, a district or deputy United States Marshal.

Q Now, you took a history from Mr. Partin?

A Yes,

Q Did he say anything about Mr. Almond when you took your history from him?

A No, I don't think he did.

Q All right. I have in front of me the report which is known as clinical record, doctor's progress notes, and your first sentence is this, "Patient was brought to the hospital by Mr. Ellis Almond, a deputy United States Marshal, stated that he had been with Mr. Partin constantly for the past three weeks, sleeping in the same room with him."

Do you recall that?

A Yes.

Q There was nothing further about the fact that he had been with this marshal for three weeks day and night,

nothing was stated to you about that?

A I think that this was mentioned, that he had been with Mr. Partin for three weeks day and night.

Q Day and night. Now, as I recall your testimony, sir, you say that he first arrived at 8:00 p.m. on February 21, 1964?

A That's right.

Q And he was discharged at 2:15 p.m. on February 22?

A Yes.

Q That is less than 24 hours?

A Yes.

Q Now, is it customary to conduct such an examination in a period of less than 24 hours?

A I think I would have to answer that by saying this is not done very often.

Q As a matter of fact --

MR. HOOKER: (Interposing) Wait a minute now. Let him finish.

MR. SILETS: I thought he had, sir.

A We are not asked to do this very often.

Q As a matter of fact, isn't it true that the hospital at Lexington has about a 3-week waiting list before patients are admitted?

A Voluntary patients have to wait quite a while

right now.

Q And according to your testimony you indicated that Mr. Partin was a voluntary patient?

A I said he came to the hospital voluntarily. He was -- we were asked to examine him by the Justice Department.

Q Would you then not consider him a voluntary patient in the terms you have just used?

A He came to the hospital, he was not raising any objections to coming to the hospital for this examination.

Q Well, was he in custody at the time?

A I don't know that I could say whether he was. I am just saying that Mr. Almond brought him to the hospital but he came of his own accord and he stayed of his own accord.

Q You mean he submitted himself voluntarily?

A Yes.

Q You have no personal knowledge of whether he came to the hospital voluntarily?

A Except what he told me. He told me that he came voluntarily for examination.

Q Where was the marshal during the course of this examination?

A He was sitting in the waiting room when he first came in and then left the hospital and left Mr. Partin at the hospital.

Q Now, when we talk about the hospital at Lexington, this is in the nature of a confined hospital, is it not?

A That is right.

Q In other words, there are guards there?

A Yes.

Q Employees of the United States Government?

A Yes.

Q It is also known as a federal prison hospital, isn't it?

A No, it's known as the United States Public Health Service Hospital, it is operated by the United States Public Health Service.

Q But it is -- but isn't it true that federal prisoners are incarcerated there while they are being attended?

A Yes.

Q I see. Now, your examination included a taking of a history from the patient?

A Yes.

Q That is standard operating procedure?

A Yes.

Q To a great extent is it not true that the evaluation you have testified to depends upon the history given by the patient?

A This is part of the examination, the history.

Q And the history is what the patient tells you?

A Yes.

Q And so you rely upon what he says was his past history, is that correct, in part?

A In part we rely on what he tells us.

Q Now, the part that you don't rely upon is a physical examination consisting of observation and tests?

A Yes.

Q Now, that physical observation and those tests relate to the condition of the patient at the time you examined him and the tests are run?

A Yes.

Q And to a great measure the history relates to what has occurred in the past?

A Yes.

Q Now, you examined him in 1964?

A Yes.

Q Did you examine him in 1961?

A No, I never saw him before February 21, 1964.

Q And so to a measure your analysis depends upon the history as to what his condition was in 1961 by what he has told you, isn't that true?

A Yes.

End 27
28 fls

Q Now, Doctor, let me ask you this, you are quite an experienced man at the hospital in Lexington, Kentucky, could you tell the jury the variety of drugs that an individual can become addicted to?

A We speak of--, when we speak of addiction we usually refer to narcotics and narcotics as we use this word are drugs that are derived from opium that have a morphine-like action and some of the synthetic drugs that have a similar action plus marijuana plus cocaine. These are the narcotic drugs as defined by the laws under which we operate. People also take other drugs that are habit forming drugs such as barbituates, some of them take drugs that are tranquilizers, some of them take drugs such as alcohol. But the addicting drugs as we refer to as for the patients who come to us are mainly the narcotic drugs.

Q Well, now, Doctor, so that we can better understand your explanation, when you say we refer to, you mean the federal hospital at Lexington when treating patients who are submitting themselves by virtue of either conviction or wanting to withdraw from narcotic drugs?

A That is right.

Q And the narcotic drugs to which you specifically relate are those that are covered by federal statutes?

A Yes.

Q Precisely the Internal Revenue Code, isn't that

correct?

A Yes.

Q But now let us talk about, and I want you to tell the jury, about narcotic drugs not in the light of a federal statute but those that a physical body can become addicted to? Those include a wide range of drugs, don't they? That the body itself can become addicted to and require a need to have--, to obtain such drugs? There are some in addition to those named in the federal statutes? I believe you said tranquilizers, they are habit forming drugs, isn't that right?

A They are habit forming in that you can continue to take them. You can get in the habit of taking them. That doesn't mean that your body becomes dependent on them, though.

Q Well, are you saying then sir that only the--, the only habit forming drugs upon which the body becomes dependent are those that are named in the Internal Revenue Code?

A No. I would say the barbituates, the body becomes dependent on the barbituates.

Q And those are not covered by the Code?

A No.

Q By the way, those can be purchased, can't they, on the market?

A They are pretty easy to get hold of.

Q You don't need a special federal license to buy one?

A It depends.
Q (Interposing) To buy the barbituates?
A No.
Q Now marijuanna is smoked, isn't it?
A That's right.
Q It is in a cigarette?
A Yes.
Q And you can become addicted to that?
A No. The body does not become dependent on marijuanna.
Q You don't become an addict?
A You may be referred to as an addict, but the body does not become dependent on it. By that I mean if you don't have it you don't show the absence signs. You don't become sick.
Q Now, cocaine is sniffed?
A Yes.
Q You can become dependent upon that, can't you?
A No.
Q You cannot?
A No.
Q What are the synthetic drugs that you mentioned?
A Demerol is probably the most common and Methadon is another one.
Q Demerol, what is Demerol, a liquid or pill or what?

A It can be either.

Q Demerol can be a pill?

A Yes. Or it can come in a vial.

Q And what is the other one you mentioned?

A Methadon (Spelling) M-e-t-h-a-d-o-n.

Q What form does Methadon come in?

A A liquid.

Q Exclusively?

A I believe so.

Q Now, Opium, all of these narcotics are derivities of opium, non-synthetic?

A All the non-synthetic opiates are derived from opium, yes.

Q Now, we have all heard about the opium dens, people smoking opium?

A Yes.

Q And the body can become attached and addicted to smoking of opium?

A Yes.

Q Now, it is true then I would imagine, Doctor, that all narcotic addicts would--, are not only those people who are taking a needle, isn't that right? In other words, you can become a narcotic addict even in your own terms by taking demerol, demerol pill, or smoking opium, isn't that true?

A Yes.

Q Then you wouldn't have a scar anywhere if you did that.

A Yes.

Q Doctor, if I were addicted to a drug, God forbid, but if I were addicted to a drug, how long would it take me to withdraw if I started to "kick it"?

A I'm not sure what you mean.

Q Well, I'm not really trying to talk like an addict. If I was addicted to a narcotic drug, and I came to your hospital and I wanted to get off the drug and no further drugs were administered to me, how long would I be in this withdrawal period where these symptoms would be apparent?

A Probably your symptoms would develop within probably a few hours after you were in the hospital and they would continue for a matter of maybe three days and then taper off gradually after that. This would depend upon the amount and the type of drugs, you see.

Q Well, in other words there are degrees of addiction, are there?

A Yes.

Q Well, let's assume that I am--, if a person was severely addicted, it would take about three days and then there would be a tapering off period, in total how long would it be before the addiction was dissipated?

A That is hard to say but I would say that after a

28-6

Rasor - Cross

week's time most patients start improving, start getting better.

E: 28
Tk 29 fol.

Q Would you say in about a month's time there wouldn't be any more symptoms of the narcotic?

A At a month's time you wouldn't expect to have any symptoms. The individual might be still somewhat jittery, he might--he might say he is not sleeping well but he would be through his withdrawal, withdrawal is usually through in a week's time or not long after that.

Q Well, then if Mr. Partin was addicted a month or two months before he came to you, you wouldn't find any of the withdrawal symptoms?

A No.

Q And, as a matter of fact, if he was addicted in 1961 you surely wouldn't find any withdrawal symptoms?

A No.

Q And that is part of the test that you conducted to examine for withdrawal symptoms?

A Yes.

Q As a matter of fact, though, didn't he complain about being restless and sleepless and so forth?

A He said that he was nervous.

Q And jittery?

A Well, I am not sure whether he used the word "jittery" or not but he said he was nervous.

Q He did indicate to you that he had taken some sleeping pills or some kind of pills to sleep?

A Yes.

Q Now, you indicated that there were degrees of addiction. Is it conceivable that an individual is just slightly addicted as distinguished from heavily addicted to a drug?

A Yes.

Q Well, then conceivably if someone was taking a drug injection he could take one every two weeks instead of every five hours?

A No, we wouldn't consider this addiction unless the body became dependent upon the drug and the individual would not become dependent on the drug unless he took it regularly.

Q All right. But if an individual took a shot of Heroin, or whatever these drugs are called, and he took it every three weeks he may not be considered an addict in terms of the hospital terminology but he still would be taking the drug, wouldn't he?

A He would not be considered an addict and his body would not be dependent upon the drug. The body becomes dependent upon the drug only after it is used repeatedly.

Q But if he took it once a month or once every two months or something of that sort he can still conceivably be taking drugs and not be the addict in the terms of your technical language where the body is in dire need of it?

A Yes.

Q Well, sir, now if a person were taking a shot of Heroin every two or three weeks at the time he took the shot he would have some kind of reaction, is that right?

A Yes.

Q And then if he felt no need for it again he could take it another two or three weeks later and the body would not necessarily be craving for that next shot, is that correct?

A Yes.

Q Now, assuming the conditions I have set forth, and assuming further that the shot is administered in various places on the arm, not in the same spot, there would not necessarily be left any single scar, would there?

A No, the scars--the scars result from repeated injections over a long period of time. This is where the characteristic scars develop.

Q I see. I don't think I have any further questions. You said, or did you say, sir, that Benzedrine was a habit-forming drug?

A I'd say it is a habit-forming drug in the usual sense of the way habit is used in taking medicine.

Q Desire to take it over and over?

A Yes.

Q And that a common name for that is a bennie?

A This is a common name of it.

THE COURT: Anything further? If not, call your next witness.

MR. HOOKER: I want to ask him one other question.

MR. BRANSTETTER: Just a moment.

MR. BERKE: Wait a moment.

THE COURT: Wait a minute, Mr. Hooker.

MR. HOOKER: Yes.

THE COURT: All right.

REDIRECT EXAMINATION

BY MR. HOOKER:

Q Doctor, for how many different kinds of drugs did you test this man?

A We tested this man for all of the opiates and the barbituates and I think this is all that we tested him for.

Q Did you test him for any of the synthetic drugs?

A Yes, the--

Q (Interposing) Demerol?

A This would be included with the opiate group of drugs.

Q Did you find any evidence that he was or ever had been taking any of them?

A We found no evidence that he was taking any of them.

MR. HOOKER: That's all. Would you leave me

that copy, Doctor? Maybe I can substitute it when we conclude.

MR. SILETS: May I ask a couple of questions on recross from here?

THE COURT: All right.

RECROSS EXAMINATION

BY MR. SILETS:

Q Did Mr. Partin ever tell you about a Dr. Magruder?

A No.

Q You never got any report from Dr. Magruder?

A No.

Q Can you testify under oath, Doctor, what the condition of Mr. Partin was when he appeared and testified in this courtroom?

MR. HOOKER: Well, obviously he wasn't here when that happened.

THE COURT: Sustain the objection.

MR. SILETS: Nothing further.

THE COURT: Call your next witness.

MR. HOOKER: I want to substitute those later.

MR. DALE: What?

MR. HOOKER: I will try to substitute and, if your Honor please, I would like to retain the original here until Dr. Isbell testifies and then make a substitution then if it's agreeable.

THE COURT: All right.

(Witness excused.)

MR. HOOKER: Call Dr. Isbell. Could we give that the same number as this one and we will substitute it, if your Honor please?

THE COURT: Well, if that is in agreement it may be done.

MR. HOOKER: Do you all have any objection to substituting a photostat for this?

MR. HAGGERTY: No.

MR. HOOKER: This will be our last witness in rebuttal, if your Honor please.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

DR. ISBELL: I do.

MR. DALE: Have a seat, sir.

HARRY ISBELL,

a witness called at the instance of the United States of America in rebuttal, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HOOKER:

Q Doctor, will you please state your full name?

A Harry Isbell.

THE REPORTER: May I have the correct spelling of the last name?

THE WITNESS: (Spelling) I-s-b-e-l-l.

Q Now, Dr. Isbell, would you tell these ladies and gentlemen of the jury something about your educational background and medical training?

A I am a graduate of the Tulane University Medical School, 1934. I am a diplomate of the American Board of Internal Medicine. For some 18 years I was Director of the Addiction Research Center, Public Health Hospital, Lexington, Kentucky. Currently I am Professor of Medicine in the Department of Medicine at the University of Kentucky Medical Center.

Q Did you see and examine a man here just recently that was introduced to you as Edward G. Partin?

A Yes.

MR. HOOKER: Bring him in, Mr. Sertel.

MR. BERKE: We will admit that is the same man.

BY MR. HOOKER:

Q Where did you see him?

A I saw him at the request--

THE COURT: (Interposing) Do I understand that you admit he examined him?

MR. BERKE: That's the same man.

BY MR. HOOKER:

Q The same man that came in before. That's all right, Mr. Partin, thank you.

A Yes, sir.

(Thereupon, the witness previously identified as Edward G. Partin was brought into the courtroom.)

BY MR. HOOKER:

Q Is this the man?

A Yes, sir, that's Mr. Partin.

(Thereupon, the person identified as Edward G. Partin was excluded from the courtroom.)

Q And where was it you saw him?

A I saw him at the request of Dr. Robert Rasor, Medical Officer in charge of the Public Hospital. Dr. Rasor asked me to assist in the examination to determine whether Mr. Partin was addicted to narcotics.

Q Doctor, have you given a good part of your professional life to this subject?

A Twenty years, sir.

Q Twenty years. All right. I wish you would tell these ladies and gentlemen of the jury just what you saw of Mr. Partin, what tests you conducted in connection with him or had conducted under your supervision and what your conclusions were.

A Well, I first saw Mr. Partin around nine o'clock

on the morning of Saturday, the 22nd of February. I understand he had been in the hospital since eight o'clock the night before.

End Tk 29
Tk 30 fls.

I saw him in company with Dr. Robert Rasor and we conducted an examination, which was aimed primarily at detecting three things. First, evidence of prior drug use. Evidence of being under the influence of drugs at the time we were examining him. And also for evidence of signs of a typical sickness that follows discontinuation of narcotic drugs or barbiturates.

In the course of this examination we, of course, searched very carefully for any evidence that Mr. Partin might have been taking hypodermic injections. We were looking specifically at his skin. All of his skin for needle marks, for scars, particularly for scars of a kind commonly associated with narcotic addiction. These are scars that run right over the course of veins or generally they are discolored, purplish discoloration from iron of the needles. And also they are generally bound to the veins and the veins underneath them are hardened.

We found no such needle marks or scars on Mr. Partin. We also looked for scars from abscesses since numerous abscesses are quite common in addiction. These scars are round with irregular edges and depressed centers. We found no such scars.

We observed Mr. Partin very carefully for signs of effects of narcotic drugs and barbiturates. We, of course, looked at his pupils very carefully. Found them to be of

normal sizes approximately 3 millimeters in room light.

We found that they reacted rapidly to light and that they narrowed when he looked at an object close by. We, of course, were talking to him and we noted that he talked rationally and quickly. That his speech was not slurred as if he were under the influence of any drugs. We noted that he performed fine actions such as unbuttoning his clothes skillfully. We put him through special tests of coordination such as standing with his heels and toes together and his eyes closed and touching his finger to his nose with his eyes closed and walking with his eyes closed. We tested his reflexes and conducted in addition a general, thorough general physical examination.

So you could say I think as a result of this examination which I did together with Doctor Rasor that we found no evidence of extensive hypodermic use in the past. We found no evidence of the sort we can find in this kind of examination that he was under the influence of a drug at the time. And we found no evidence of the sickness that follows withdrawal of narcotics.

We then proceeded onto further testing. We carried out a special test called the nalorphine test or nalline test.

Q Let me just interrupt to ask you did you have a part in the development of that test, Doctor?

A Yes, sir, I did.

Q All right, just explain it to the jury.

A The nalorphine test involves the administration of a drug called nalline. This is its common trade name or nalorphine.

Now, this drug is a derivative of morphine, but strangely perhaps instead of being morphine-like it is antagonistic or an antidote for morphine. For instance, if a person is poisoned with morphine, you can give him this drug and he will revive almost immediately.

In addition, if an individual is addicted to a narcotic drug and you give him nalline, it, so to speak, erases the narcotic drug that he has in him in almost a matter of minutes so that the illness that follows stopping narcotics comes out in a matter of minutes and can actually after nalline be more severe than it is naturally.

Now, in performing this test according to the technique we use at Lexington we make initially two sets of observations in which we examine a man specifically and note specifically on the sheet the common signs of the sickness that follows withdrawal of narcotic drugs. They include such things as sweating, presence of gooseflesh, of increased rate and depth of breathing, of constant yawning, and of dilatation of the pupils.

So, we do two sets of these observations prior to

30-4

giving the nalorphine. These are done after the man has rested quietly in bed for 15 minutes and the observations are done at intervals of 15 minutes.

End 30
30a fls

The pupils in our technique are measured by photographic technique. We take a picture of the person's eye under conditions of constant light and under conditions where he is gazing at a fixed spot on the wall.

Q (Interposing) Let me interrupt, does this record contain those photcgraphs series?

A The record does contain photographs, yes, sir.

Q All right, sir, go ahead.

A And simultaneously when we take these photographs, we photograph a ruler which is graduated in half millimeter steps and in the same plane as the eye. And then the picture is made with a special polaroid camera so that the picture is ready within a minute. And then we can measure directly on this picture with the calipers and put them across the pupil, transfer them to the ruler, and get a very exact measurement of the size of the pupil which is objective.

So, these things are done twice before the drug. And then we give the drug and we give initially, this is given hypodermically initially a dose of three milligrams. We wait for an interval of ten to fifteen minutes. We make a new observation and then if we do not see the typical signs of abstenance which includes sweating, dilatation of the pupils, runny nose, and so on, we give a second injection of nalline of five milligrams. We wait again to give the drug time to operate. We repeat the observations and if it is

still negative we give finally a dose of eight milligrams of nalline dose and repeat the observations.

Now, in case theindividual is not addicted at the time the test is done instead of us getting the signs that are characteristic of illness, withdrawl from morphine we get signs of the direct effects of this drug which are opposite in direction to the withdrawal illness which it will precipitate in an addict.

For instance, instead of the pupils dilating if the man is an addict his pupils will dilate after the nalline is given. If he is not an addict and you gave him the nalline his pupils constrict. If he is an addict and you give him the nalline his respiration becomes more rapid and deeper, and if not an addict his respirations become slower and so on.

So, if one sees the nalline effects come out instead of the illness, then you can be very sure that you are not dealing with an individual who is addicted to the drug at the time the examination is made.

So we did this test on Mr. Partin and we observed no signs of abstinence and we observed in the photographs definite pupil area constriction instead of dilitation. In other words, this was a negative nalorphine test and is to my mind conclusive proof, conclusive scientific proof, that Mr. Partin was not addicted to a narcotic at the time the

examination was made.

Now, in addition to this, other examinations were done. There were examinations, two specimens--

MR. BERKE: If Your Honor please, if we could just narrow it down to the real issues, of course, I don't want to cut the doctor off, but I do think he is going into a lot of areas--

MR. HOOKER: (Interposing) We want him to state--

MR. BERKE: (Interposing) Looks like he is getting into things that just take too long to go into. I think we should limit it to the actual results and so forth of the test.

THE COURT: Well, proceed.

MR. HOOKER: We want to make it conclusive, if Your Honor please, to settle this.

THE COURT: Proceed.

THE WITNESS: Could you tell me what to do now?

BY MR. HOOKER:

Q Go ahead. You started to say you made some other type of examination.

A Well, two other types of tests were made at the hospital on this same morning.

End 30A
Tk 31 fol.

One of these was an electroencephalogram for any evidence of drug effect and the other was an examination of two specimens of urine for narcotic and barbituric drugs, which were performed in the hospital laboratories.

I conferred with the chemist and he showed me the results of these examinations for narcotics. I saw the charts and plates.

The electroencephalogram was reported to be negative. The chemical tests --

MR. BERKE: (Interposing) You hold all that competent, what other doctors reported to him? If your Honor please, it gives us no opportunity at all under the rules.

MR. HOOKER: It's not unusual, if your Honor please, in matters where you have chemical laboratory tests for them to be reported to the doctor making the examination.

MR. BERKE: Still not within the rule, if your Honor please.

THE COURT: Well, proceed.

BY MR. HOOKER:

Q Go ahead, Doctor.

MR. BERKE: Well, is your Honor overruling the objection?

THE COURT: I am not sure I understood the objection.

MR. BERKE: I object because he is reporting what

other doctors have reported to him and he has seen the results of it and, of course, it deprives us of the cross examination of these other doctors.

THE COURT: All right. Sustained.

BY MR. HOOKER:

Q Let me ask you this question: These tests made under your supervision and at your direction?

A They are made at my direction, yes.

Q Were they furnished to you there regularly in the regular course of this examination?

A Yes, sir.

Q That is, the chemical tests and also the electro-encephalogram?

A Yes, sir.

MR. HOOKER: May we continue, if your Honor please?

MR. BERKE: We object to that, if your Honor please.

THE COURT: Well, proceed. Overruled.

BY MR. HOOKER:

Q Go ahead, Doctor.

A As a result of the examinations and various tests, we reached the conclusion and at the time of the examination I can state really as a matter of scientific fact that Mr. Partin was not addicted at the time the examination was made. As a matter of opinion --

MR. BRANSTETTER: (Interposing) I am having difficulty hearing.

A Sir?

Q Speak a little louder, he said he is having difficulty hearing.

A As a matter of opinion I found no evidence whatever that Mr. Partin ever had been an addict.

Q Is that your professional opinion?

A Yes.

Q That he has not?

A Yes.

Q How many types of drugs did your examination -- various types of drugs contemplate and embrace?

A Well, it contemplated and embraces two main types of drugs, what we call narcotics -- there are a rather large number of narcotics, both naturally occurring in opium and synthetic narcotics, so the scope of the examinations would include every narcotic that was currently available in drug-stores in the United States.

The second type of drug which we made detailed examinations of were barbiturics.

Q Did you find any evidence at all that he was taking any of them?

A No, sir.

Q Are these tests resolved pretty well scientifically

to a mathematical certainty, Doctor?

A That he was taking them at the time?

Q That he was not taking them.

A At the time he was examined I would say with mathematical certainty.

Q In your professional opinion was there any evidence that he had ever taken any of them?

A No, sir, I couldn't say that there was any evidence that he had ever taken any drugs.

MR. HOOKER: That's all.

CROSS EXAMINATION

BY MR. SILETS:

Q Doctor, would it be fair if I summed up the results of all of the tests that you have so expertly detailed to the jury as indicating at the time of the tests that he was not addicted to any drug, the nalline test, that was the basis, the heart of your testimony, you gave some length of time -- I know you are co-author of that, but essentially that test relates to whether at the time you were so examining him he was addicted?

A Yes, sir, that is correct.

Q Doctor, I notice you are very careful to discuss addiction. That is somewhat different than taking the drugs or taking a narcotic drug, isn't it; in other words, someone can take it and not be addicted to a drug, is that true?

A Yes, there is a quantitative cutoff point.

Q Yes. If you took it, say, every two or three weeks or once a month he would not necessarily be addicted in the legal or medical sense?

A He might be addicted in a legal sense, sir, but he would not be addicted in the medical sense.

Q I see. Now, if in your professional opinion, Mr. Partin was taking narcotic drugs, not using the word addicted, and the last time he had taken it was, say, three weeks before he saw you, you would not be able to determine that at the time you gave him the nalline test?

A No, sir.

Q Now, certain evidence here is that for three weeks Mr. Partin was being observed by a deputy United States Marshal, was sleeping with him for three weeks, would it be in your experience, as an employee of the United States Government, Public Health Service, that the United States Marshal would not permit him to use an illegal narcotic drug, is that within the realm of your experience?

A I don't think this would come within the realm of my experience.

Q All right. You said as a matter of mathematical certainty you could say at the time of your tests that he was not addicted but as to prior time it was a matter of your opinion?

A Yes, sir.

Q Now, as I gather then your opinion is restricted exclusively to what we have now called an addiction?

A Or to simply the taking of large numbers of injections, say even of a non-addicting drug.

Q Yes. But when you say "large numbers," you mean -- would you tell us what you mean?

A Well, a sufficient number of injections to cause scarring along the course of the veins.

Q Now, sir, Doctor Rasor gave his professional opinion and told us that if an injection was given every two or three weeks in a different spot in the arm that no scar would be left because they would heal?

A That is correct, sir.

Q All right. That is your professional opinion as well?

A (Witness moves head up and down.)

Q Now, if that were the case, then you would not find any scars in Mr. Partin's arm?

A That is correct, sir.

Q Oh, by the way, sir, what did he tell you about Doctor Magruder?

A Mr. Partin?

Q Yes.

A He didn't tell me anything.

Q Okay.

MR. BERKE: Just one minute.

BY MR. SILETS:

Q Do you know him, by the way, Doctor Magruder?

A No, sir, I don't.

Q Do you recall, sir, that there were some scars on his hands?

A Not on his hands; as I recall, there were some over his left wrist.

Q Well, left wrist?

A Yes, sir.

Q Well, I meant that there were, I think three or four scars, were there not?

A Yes, sir, there were several scars right in this area (indicating).

MR. SILETS: All right.

MR. HOOKER: Is that all?

REDIRECT EXAMINATION

BY MR. HOOKER:

Q Were they narcotic scars, the type that a man would have if he were taking narcotics?

A The scars on his wrist?

Q Yes.

A No, sir. These scars were not related at all to the veins and the veins crossed the scars at angles and the

scars -- the veins were not sclerosed beneath the scars and the scars were not, so to speak, attached to the veins, quite different.

Q Doctor, if a man is taking narcotics, how long do you have to have him off of it before anybody, whether you are a doctor or not, can tell that there is something going wrong?

A You mean without giving any sign?

Q That's right.

A It's a function of the particular kind of drug that he might be taking and what the length of action of that drug is, but within 12 to 14 hours we would have definite signs appearing in any individual who was really addicted to any of the narcotics.

Q Tell me this, if you sit, if you sit where you are sitting now under cross examination for five and a half days, do you think you are pretty well --

MR. BERKE: (Interposing) Objection.

MR. BROWN: Objection.

MR. SILETS: Object.

THE COURT: Sustained.

RECROSS EXAMINATION

BY MR. BERKE:

Q Doctor, there has been a witness that made a reference to bennies. Do you know what bennies are?

A This is a term that an addict or other people may use for Benzedrine or Amphetamine tablets or inhalers.

MR. BERKE: All right.

THE COURT: All right.

MR. HOOKER: I am going to give the Doctor back the original records. I understand Mr. Dale has the photostat.

MR. DALE: That's right.

THE COURT: All right.

MR. HOOKER: We would like -- well, your Honor passed on that.

End 31a
32 fls

MR. HOOKER: If Your Honor please, that concludes the government's proof in rebuttal.

THE COURT: All right.

MR. HAGGERTY: May we ask for a few minutes recess at this time, Your Honor?

THE COURT: All right, let's take a ten minute recess.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom, and court was in recess.)

AFTER RECESS

(Thereupon, after recess, in the absence of the jury of 12 and 4 alternates, court was in session and the following proceedings were had, to-wit:)

MR. HAGGERTY: May I address the Court?

THE COURT: Yes,sir.

MR. HAGGERTY: If Your Honor please, at this time we make a motion to strike the testimony of the two doctors that were produced by the government in surrebuttal for the following grounds. Rebuttal, rather.

First, I moved the Court during the examination of the witness Partin that the defendants had the right to a physical examination of the witness Partin at that time and an examination by a psychologist, which Your Honor denied. Second, this evidence--, a psychiatrist, I may have misquoted myself.

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It is self-serving evidence and is used by the witness Partin to corroborate his own testimony.

Third, evidence of his condition on February 21 and 22 is not competent, relevant and material to the issues that have been created in this case.

The testimony was to the effect that he was addicted to some kind of drug in 1960, 1961 and possibly 1962, the early part.

THE COURT: All right. I believe that motion should be overruled. Is there anything further at this time? Any further--, do I understand that all proof in the case has now been completed? All right.

MR. HAGGERTY: Do I understand that the witness Partin was served with a subpoena. Mr. Bufalino is familiar with it, that he should produce the books and records under his control, made under his direction, of Local No. 5. And further, as to certain books and records he says he had and he referred to them as black books at his aunt's house. Now, if he can go, there is no excuse, if the government can arrange it to send a deputy marshal over to Lexington, they certainly can arrange to send a deputy marshal down where he had these books where there was every indication there was evidence in those books that would have been vital to the defense.

THE COURT: All right, gentlemen. I can't see

32-3

that that is a matter that addresses itself to any action by the Court at this time.

MR. HAGGERTY: Well, I would think so, Your Honor, the question is where is Partin and where are his records? He has been subpoenaed by the process of this Court. And he has been here, he has been under the testimony for three weeks, night and day, under the protection or guard of a marshal. They can send him to Lexington, why couldn't they send him down where he said that he had these books? Maybe they have. That is what we want to find out at this time.

End 32

Tk 33 fol.

THE COURT: Well, I can't understand that is any matter for the Court.

MR. BRANSTETTER: May it please--

MR. HAGGERTY: (Interposing) I would like a ruling on it, may it please the Court, I think we are entitled to it before the case is closed.

MR. BRANSTETTER: I would like to make a motion then to suppress all of Partin's testimony on the basis that the government held the witness here under guard, did not permit him to return and obtain the books and records and information, the black book, I believe is the way it was referred to, that he was directed to bring into court and said he could bring into court. The government has suppressed the possibilities of it, the possibility of this witness bringing in those records, then all of his testimony must be stricken.

THE COURT: Well, now, gentlemen, the proof in chief went in the day before yesterday and was completed, now the rebuttal testimony has gone in and now, as I understand, all of the defendants have rested.

Let's proceed to the next order of business. The next order of--

MR. SCHIFFER: (Interposing) Your Honor.

THE COURT: Yes.

MR. SCHIFFER: Your Honor, in connection with

that one point, your Honor, just remember Parks does not rest until the government produces and the record will indicate the government produces Parks' black book. We asked that on cross examination--I mean Partin's black book--it was agreed by the witness that he could procure them and we were told he would procure them and, therefore, we have served him with a subpoena, he is supposed to come back here with that record. He hasn't yet produced it.

Now, that is vital to the defense of not only Parks but other defendants.

We ask now at this time that he is here that he produce that black book. It contains material which goes vitally to the credibility of him as a witness as to his whole testimony and vital portions of his testimony as it concerns the indictment and certainly seriously affects the defense.

THE COURT: Gentlemen, this is certainly not any surrebuttal. Let's proceed to the next order of business.

MR. SILETS: I want the record to show I have joined in this motion for the production of the record and the examination of Mr. Partin.

THE COURT: Well, overruled.

MR. NEAL: May it please the Court--

MR. ALEXANDER: (Interposing) That goes to all defendants, your Honor.

MR. NEAL: The government has--

THE COURT: (Interposing) Overruled as to all defendants.

MR. NEAL: We were asked by the Witness Sargent Pitcher to request permission from the Court to reproduce and replace the tape recording that he turned over, it was never in the possession--

THE COURT: (Interposing) That request will be denied.

MR. NEAL: Excuse me, your Honor. Maybe if I could state the request, it is to reproduce the tape recording under the auspices of the Court and then turn the reproduction back into the court and the original back to--

THE COURT: (Interposing) That request will be denied. All right. Is there any--may the jury be excused at this time for the day? All right. Have the jury come in for a moment.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further proceedings were had, to-wit:)

THE COURT: Just remain standing, ladies and gentlemen. Ladies and gentlemen, we have no further matters for consideration by the jury this afternoon so I am going to excuse the jury at this time but to report back at nine

o'clock in the morning and ask that you observe the usual instructions. Do not discuss the case among yourselves, do not form any opinion in the case or express any opinion in the case until the case is entirely completed and you have been given instructions in that regard. Likewise, do not allow anyone to talk with you about the case or talk in your presence about the case. You may be excused at this time.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

THE COURT: Now, then, gentlemen, we have the matter of a hearing in regard to evidence alleged to have been illegally obtained.

MR. SILETS: Your Honor, before we go into that we have some motions at the close of all of the proof.

THE COURT: All right.

MR. SILETS: I guess I am in error, your Honor. I think maybe it is proper that the motion to suppress come before our motions.

THE COURT: All right, sir. With respect to any hearing upon evidence alleged to have been illegally obtained, such a hearing will be limited to the telephone calls upon October the 8th and the 18th, 1962, as those are the only matters upon which any basis exists in the record for any hearing.

Now, if you have any further evidence to offer in regard to those matters the Court will hear it at this time.

End Tk 33
Tk 34 fls.

THE COURT: If there is no further evidence the Court will hear any further argument.

MR. SILETS: I would like to make a statement for the record.

THE COURT: All right, the Court will hear any statement or argument for the record.

MR. SILETS: May it please the Court, during the secret session on February 6, 1964, without disclosing the precise contents, Mr. Neal filed at Page 3515 of that proceeding an FBI report, I don't know if the exact nature of that has ever been disclosed, but it was technical, according to Mr. Neal, it involved a technical report. It was a technical report, without stating to the Court in the presence of the public the nature of it exactly.

THE COURT: Well, that report did not in any way relate to any recordings. It did not relate to the recordings. It did not relate to any matters that are at issue in this lawsuit and the Court sealed that report.

MR. SILETS: Yes, sir, may I continue, Your Honor?

THE COURT: Yes, sir.

MR. SILETS: Sometime on or about the 7th of February I had requested "all possible statements of Mr. Partin relating to matters on which he spoke to Mr. Grimsley and Mr. Daniels before the Nashville trial."

Now, on Page 4020 of the record the Court ruled

that that motion was too broad. Then Mr. Neal interjected and indicated he had a small matter. And what had been previously marked as Exhibit No. 114, secret report in the secret session which was sealed, Mr. Neal at Page 4021 asked to see that report of the secret session, that Exhibit No. 114.

Then on Page 4027, Exhibit 114 was opened and delivered to Mr. Neal.

Then on Page 4029 and 4030 Mr. Neal added to Exhibit 114, he said with respect to Exhibit 114 I would like to submit for inclusion in that exhibit a full FBI report of the subject matter there. It will be in addition to the matters there. I think it is just an incomplete report. The clerk in the presence of the clerk I went through that exhibit No. 114. I would like to submit this FBI report with that exhibit.

At Page 4031 the Court resealed Exhibit No. 114 as it originally was.

Then at Page 4035 the Court retired and examined this additional FBI report and Page 4035 it was marked and filed as Exhibit--, there is some confusion in the record, but the best I can tell, Your Honor, it was filed and marked as Exhibit No. 118.

Now, at Page 4028 Mr. Neal had at that morning which I might add was February 10th, had indicated that to Mr. Grimsley's report he had two portions, an exhibit "A"

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and Exhibit "B". The Exhibit "A" was marked as Exhibit No. 119. As far as I say there is some confusion as to which is which, but the best of my analysis of the record, Exhibit "A" was marked as No. 119 and it was turned over to the defendants. It was a small slip of paper comprising about one paragraph.

The balance was Exhibit "B" and that was Grimsley's report which at Pages 4028 and 4035 the Court indicated it was sealing as Exhibit 118.

Now, at this point as far as my analysis of the record is concerned, that exhibit No. 118 what Mr. Neal had referred to as an additional FBI report and Mr. Grimsley's report.

At Page 4035 I asked the Court that the Court turn over to us the entire contents of Exhibit No. 118 and that was denied.

Now, Your Honor, at Page 5129 Mr. Haggerty made a motion for the government to produce all tape recordings of phone conversations, particularly recordings of October 18th, 1962.

And at Page 5130 the Court ordered the government to file a response.

This was February 14th. At that time on Page 5130 I asked the Court for an opportunity to examine Mr. Grimsley. Some further matters occurred. There was an

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examination of a Mr. Albert J. Gasdor.

And then at Page 5144 Mr. Berke filed a motion to dismiss the indictment on the grounds of an illegal interception in the making of these phone recordings. I don't want to re-read the entire motion. And in the course of Mr. Berke's argument he stated very specifically that the government had previously indicated that there were no such recordings.

End 34

Tk 35 fol.

Then he indicated that apparently recordings were evidently in existence because Mr. Bufalino the night before, Thursday February 13th, had interviewed Mr. Daniels and Mr. Daniels had in fact indicated that there were such recordings.

At Page 5147 Mr. Neal said that the government never said that there were any recordings and the Court ordered the government to file a written response.

At Page 5158 this colloquy occurred:

"Mr. Neal: May it please the Court, before the jury comes in, I had just remembered with respect to the recordings, those were turned over to the Court, I believe. I had forgotten and perhaps the Court had forgotten."

The Court stated, "The Court hadn't forgotten anything."

"Mr. Neal: Sorry, I had forgotten it. They had been turned over, had been ruled on by the Court. Turned over with all other matters for determination in connection with Jencks statements, and we will file a response. I had forgotten that we had turned them over.

"Mr. Berke: Are you talking about the telephone recordings?

"Mr. Neal: Yes, sir."

THE COURT: That is the matters in Exhibit 118 that were made available to the defendants by the Court the other day. Yes, proceed.

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MR. SILETS: Then at Page 5159 the Court--, excuse me, the Court said, "I stated that everything that has been turned over to the Court has been made available to the defendants was available in the Court's understanding of the law, everything that was not available has been sealed and is a sealed exhibit in the case."

I said, "May it please the Court, may I inquire so that the record may be clear what exhibit number contains the recording which that Mr. Grimsley made Mr.Partin at this Holiday Inn, the recording we are talking about? Mr. Neal knows what recording that is, which taped telephone conversation, which recording of conversations in the hotel room were taped and submitted to the Court; I would like for the sake of clarifying the record that we know specifically the exhibit number."

The Court, "Well, gentlemen, you will have to go back to the record and see what exhibits were sealed. The record will reflect what exhibits were sealed."

I might say at that time, Your Honor, it was somewhat unapparent--

THE COURT: (Interposing) I didn't understand which exhibit you were referring to but that was Exhibit 118.

MR. SILETS: When we sit back and analyze the record at the time this occurred it was not clear what exhibit was involved, what was involved.

Now, at that point Mr. Branstetter made this motion, "May it please the Court, also in order that the record will be very clear, it is not only under the Jencks act that these tapes were requested, they were requested to be furnished to counsel as having been matters or material that was obtained in an illegal method, and not just the Jencks statement. And that we should have an opportunity to establish that in the appropriate hearing and also to call Grimsley and others to determine whether or not all of them were turned over."

Now, Your Honor, the next matter in the sequence of events, on the following Monday, February 17, 1964, I presented a motion to suppress based on a legal recording, which appears at Pages 5384 through 5387. At Page 5392 Mr. Haggerty asked the Court for an immediate ruling before the defendants proceeded on their proof. And to quote a page from 5393, this is Mr. Haggerty, "And I say to Your Honor we are placed in the clumsy situation, a difficult situation, there is information that there were recordings, there may be wiretapping, I say it is such an imperative and important constitutional guarantee that we should have a ruling on this matter and if in Your Honor's discretion to grant us a hearing we should know that before we are put to our proofs on the defense; therefore, I respectfully request Your Honor to properly make a ruling on this motion."

35-4

Then at Page 5394 the Court said, "Let's proceed, gentlemen. I will take those matters up in due course. Let's proceed. Are we ready to have the jury back?"

And at Page 5393 the Court said, "Well, the Court will have to take the motion under advisement until it has had an opportunity to study and also to consider the response of the government, so I will reserve that at this time."

Then the government filed a memorandum entitled, "Government's memorandum of law on the applicability of 18 USC 3500 to transcripts or recordings of telephone conversations between a government witness and a defendant taken with the consent of the witness by state law enforcement officials."

That was on February 17, 1964.

Attached to that memorandum were two affidavits, one of the witness Daniels and one of the witness Partin.

Now, in this memorandum the government erroneously referred to the transcript in relating to the session of February 9th, 1964. They recited the transcript as being Pages 2041 and 2048 when in reality we later learned that the precise citations were 4021 and 4028. As a matter of fact, at Page 5873 I pointed this out to the Court and indicate d some concern because the government was in effect responding saying that they had turned this over and when reading this their memorandum I could not find it.

End 35
Tk 36 fol.

Then, your Honor, at Page 5534, also on the 18th of February, Mr. Haggerty renewed his motion and asked for an immediate hearing.

At Page 5546, Mr. Schiffer made a motion to strike the testimony of Partin in the light of his denials from the stand as to these recordings and on the basis of the affidavit attached to the government memorandum.

At Page 5550, the Court said that it desired to study the cases further that were cited in argument.

The next thing that happened, your Honor, was on the 18th of February the following day, at Page 5669. At that time the Court allowed the hearing on the motion to suppress.

At Page 5845, strangely enough Mr. Neal said when we were discussing whether Mr. Daniels should even take the stand, I have interviewed Mr. Daniels and I can't see any relevant testimony he would have with respect to this matter.

On the 19th, the next thing that happened, your Honor, is on the 19th of February, Mr. Neal filed his response to a subpoena duces tecum which was served on him and moved to quash that. At that time it was stated for the very first time in this entire record that the recordings, the actual recordings were turned over to the Court and at that time--in that response, Mr. Neal for the first time

quoted the correct page of the transcript, 4021 and 4028.

Now, then, I point out to the Court this is on the 19th of February.

Then on the 20th of February, on February 20, Mr. Branstetter was examining the Witness Grimsley and he asked about these tape recordings and he asked if Mr. Grimsley knew where they were and in whose possession they were.

"Question: In whose possession are they, if you know?

"Answer: I don't know.

"Question: To whom did you deliver them?

"THE COURT: Well, now, if it will save any time I assume they are right here in the Court's possession."

Page 6504--

THE COURT: (Interposing) That is filed as Exhibit No. 196 and No. 197 and as requested yesterday by Mr. Branstetter, they have been opened by the Court and will be made available to attach to the typed exhibits. Mr. Branstetter, do you recall the number of the typed telephone conversations?

THE CLERK: No. 215 and No. 216, your Honor.

THE COURT: 215 and 216?

THE CLERK: Yes, sir.

THE COURT: They may be attached to those very exhibits and properly related to each other.

MR. SILETS: Yes, sir, your Honor. Mr. Branstetter said at Page 6504:

"MR. BRANSTETTER: Now, may it please the Court, we have not seen them. I don't know the Court has them as a matter of having seen them, observed or heard them or read them.

"THE COURT: I am so advising you.

"MR. SCHIFFER: Well, your Honor, may we have the exhibit number of those records?

"MR. BRANSTETTER: I would like the exhibit number.

"THE COURT: They have not been filed as exhibits. Proceed with your examination of this witness."

At Page 6505, after the Court had excused the jury, the Court advised Mr. Branstetter that what he was seeking to go into was a matter which was to be taken up on the motion to suppress. And if I may quote that from the bottome of Page 6504: "Now, then, gentlemen,"--this is the Court--"the Court ruled the other day that it would give you an opportunity to go into these matters prior to the submission of any case to the jury. The only conclusion that the Court can draw at this time is that you are rather deliberately seeking to evade the order of the Court in that respect and try to go into these matters at this time in the presence of the jury.

"Isn't this exactly what the Court ruled upon the other day, Mr. Branstetter?"

And Mr. Branstetter said, "No, may it please the Court."

At Page 6506, this colloquy occurred between the Court and Mr. Schiffer.

"MR. SCHIFFER: I have a second purpose, if I may address myself, that second purpose becomes one of prime and vital importance to the Defendant Parks in this sense, what I am trying to determine here is did it happen that the prosecution turned over to the Court certain records which are not marked in evidence or for identification and hid them in that respect from the defense, because if that occurred, your Honor--"

Then the Court interposed.

"THE COURT: (Interposing) There is nothing hidden from the defense. The Court is aware that the records are here, they will be available to the defendants at the proper time. They were filed upon the examination of the Court along with the response of the government and the two tapes are right here."

End Tk 36
Tk 36A fl.

Now, I point out to the Court that at this juncture there were only two things filed by the government, that was their memorandum on Section 3500 and the motion --, brief in support of the motion to quash on the subpoena of Mr. Neal.

Now, one was filed on the 17th, a memorandum was filed on the 17th, which did not indicate attachments to it. And Mr. Neal's motion to quash his subpoena was filed on the 19th, the preceding day, also with no indication of any attachments.

Now, at page 6507, the Court stated as follows:

"THE COURT: Mr. Schiffer, let me just tell you the other day the government filed with the Court a memoranda and attached to that memoranda were two envelopes which were delivered to the Court. They have been with the Court since that time. No one has made any request for them or about them. They are nothing in the world but IBM dictaphone tapes. The Court has not --, I do not know what is on the tapes --, I have never examined the tapes, they were delivered to the Court in that manner."

That is at page 6507.

At page 6508, apparently Mr. Schiffer had made some comment about three weeks, and the Court interposed at page 6508 and said:

"THE COURT: (Interposing) No, sir, it hasn't

been for three weeks. These were delivered to the Court with a motion filed by the government within the last week, I am certain."

Then, your Honor, again at page 6512 of the record, Mr. Neal answered by saying he had turned those recordings over to the Court pursuant to my request.

"MR. NEAL: The tapes, as well as the transcription, that is the actual tapes as well as a written transcription, has been turned over to the Court and we did it pursuant to their request contained at page 5129, this is beginning at 5128 and 5129, Mr. Silets and Mr. Haggerty asked that the tapes be turned over."

Then Mr. Neal read those parts of those pages.

THE COURT: I might just say that I am not sure that I understand exactly what is being said there, but the dictaphone belts were not turned over to the Court at the time that the typewritten transcript or typewritten transcript was turned over and sealed as Exhibit No. 118 at the time of the request for the Jencks statements. The dictaphone belts themselves were turned over at the time indicated by the Court which I believe was about February 18th.

MR. SILETS: Your Honor, my point is this, if I may just interject there while I'm going through this, my point is that at the time Mr. Neal inserted this additional FBI report and I read that from the record we had no idea

that it reflected a telephone recording or transcription of a telephone recording. That was never brought out to us and, as a matter of fact, it was my understanding that some of the defendants, including Mr. Hoffa, went to the Clerk's office to actually feel the sealed documents to ascertain whether there were any tape recordings. Those are bulky objects in that sealed document and there were none.

End 36a
37 fls

Your Honor, my point is I would like to continue but my point is in short that the government has surreptitiously turned the actual evidence of a recorded conversation, that is, a tape, a plastic belt, over to the Court in such a fashion that it was impossible for the defense to ascertain that.

Now, if I may continue then, Your Honor. Now, then at Page 6512 Mr. Neal stated, as I had indicated, that he had turned them over pursuant to my request.

MR. NEAL: I--

MR. SILETS: (Interposing) Sir? Then at Page 6513 I pointed out the error in the pages that were cited by Mr. Neal and specifically with reference to the 10th of February and Page 4021, et cetera.

Now, on Page 6515 the Court said to me, "Mr. Silets, there were these two envelopes that were attached to the memoranda filed by the government. As I say, I don't recall just when it was filed, but it was filed sometime within the past week. There are two IBM recording tapes in there. What they are or what they contain the Court has no knowledge.

"The Court has never listened to them. They certainly will be filed as exhibits if you request that they be filed as exhibits and marked as exhibits in the case."

Then I, of course, asked that they be so marked.

Now, again, just to backtrack for a moment, at

Page 6507 the Court had also stated with respect to the Court's knowledge of the contents, "Mr. Schiffer, let me just tell you the other day the government filed with the Court a memoranda and attached to that memoranda were two envelopes which were delivered to the Court." I think I have read this, the Court is indicating, in other words, that the Court had not examined the tapes.

THE COURT: The envelopes bore the dates of October the 8th and October the 18th, consecutively.

MR. SILETS: Well, of course, my precise point is the defense had no knowledge that they were turned over to the Court and had no knowledge that in fact in Exhibit 118 there was a transcription of a telephone recording.

Now, at Page 6519 Mr. Berke said, "All right. We appreciate the Court giving us that information. Now is the Court advising counsel that these tapes or a transcription thereof is not information which we have been entitled to under the Jencks rule?"

"The Court: Yes, sir. Yes, sir. The Court's opinion is that they are not producible under the Jencks act."

Now, Your Honor, I point out to the Court, with deference to the Court, on two occasions within the space of five minutes the Court had indicated the Court had not heard the tapes.

THE COURT: Well, I was referring, Mr. Silets, I

was referring to Exhibit 118, which was the telephone--, typed up telephone conversations.

MR. SILETS: Now, Your Honor, at Page 6518 the Court marked these exhibits as 196 and 197, being October 8 and October 18 respectively.

THE COURT: I might just state that I opened the sealed exhibits last evening, those tapes, and did listen to them, they are very poor recordings and very difficult to understand but apparently they are the content as shown in the typewritten statements which were released to the defendants from Exhibit 118.

MR. SILETS: Well, of course, Your Honor, the position of the defense is that the Court at the time the Court sealed them as exhibits 196 and 197 had no basis for the sealing of the documents, the Court having indicated on two separate occasions on this date of February 20th that the Court had not heard them at the time of the sealing.

THE COURT: Well, I assumed that they were what they purported to be on their face, October 8th and October 18th recordings.

MR. SILETS: Well, Your Honor, my point is that the government did not indicate to the defense that they were turning them over to the Court. I don't believe the Court had proper information upon which to make a determination within the meaning of the statute and, of course, I am

urging upon the Court this was an error of the Court at the time.

Now, then in conclusion, Your Honor, at Page 6520 the Court said, "I might just say this, too, in connection with that," that is the affairs that I have just related, "the Court expects and anticipates at this time that those recordings and those tapes will be made available to the defendants at the appropriate time when the Court considers the motion to suppress."

Of course, this is the appropriate time inwhich we are now going to consider the motion to suppress.

We have, of course, the transcription from Exhibit 118 which has been turned over, as the Court has indicated. We have not seen or heard the actual dictaphone belts, Exhibits 196 and 197. We would like to have an opportunity to hear those.

THE COURT: Yes,sir.

MR. SILETS: Now, Your Honor, we would also like the Court to turn over to the defense the contents of the balance of Exhibit 118, the report, the FBI report of Mr. Grimsley.

We would also like to determine whether at the time Mr. Neal reviewed the sealed contents of 114 and 118 was an additional FBI report, whether at that time the government knew that in fact it was not an additional FBI

report but was in fact the specific recordings of taped conversations.

Now, if the proof shows that that is in fact the case we move to suppress all of the evidence because the government has acted illegally and deceitfully upon the Court and upon the defense to restrain and refrain from the defendants the rights to determine whether there was illegally obtained evidence.

In addition, Your Honor, we would like at this moment to recall Mr. Daniels inasmuch as Mr. Daniels has stated that he had taken other telephone conversations and that Mr. Partin had recorded other telephone conversations, although Mr. Daniels at the time indicated that it was his opinion that it did not relate to these matters, I think this is not for Mr. Daniels to ascertain.

In addition I think Mr. Grimsley should be recalled for the same purpose, to ascertain whether there were other recordings and what other reports he prepared and which may be pertinent to this motion.

I would like to offer in evidence the transcript of Pages 5158 through 5160 regarding Mr. Neal's reference to the turning over to the Court of certain telephone recordings of conversations and the Court's response that the Court had read the same and placed them as exhibits in a sealed envelope.

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I would also like in evidence in support of our motion the transcript at Pages 5384 through 5387 and 5392 and 5393 wherein request was made of the Court as to whether the government had turned over the recordings of telephone conversations to the Court as sealed exhibits and the Court did not reply thereto.

I would like to offer in evidence the government's memorandum of law filed on February 17th, 1964, pertaining to the applicability of the Jencks act to the telephone recordings wherein it was stated that the telephone recordings were made of the October 8th and 18th telephone conversations in the year 1962 between Partin and the Defendant Hoffa and that the transcript of those recordings were submitted to the Court during the session of February 10,1964 (transcript page 2041) and were then ordered sealed (transcript Page 2048).

I would like to offer in evidence transcript Page 2041 and Page 2048 to show that such pages contain no reference to any telephone recordings being turned over to the Court. I would like to offer in evidence the government's response to the subpoena duces tecum served upon James F. Neal wherein Mr. Neal stated that he had no recordings since they had been turned over to the Court on February 10, 1964, at Pages 4021 and 4028 of the transcript. I would like to offer in evidence transcript Pages 4021 and 4028.

End 37
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I would like to file in evidence the motion to modify the subpoena duces tecum that was issued to Sargent Pitcher when he stated that any material he had relevant to these recordings were turned over to William Daniels, his assistant.

I would like to offer in evidence the transcript at Pages 5881 and 5889 wherein Daniels testified that he had turned over the recordings of the telephone conversations of October 8 and October 18, 1962, to Frank Grimsley, the Assistant United States Attorney.

I would like to offer in evidence the transcript at Pages 5874, et sequiteur, wherein Mr. Daniels testified with regard to the mechanics employed in applying the induction coil to the telephone and the details of how that induction coil was operated with particular reference to whether the messages intercepted by the coil before it reaches the hearer.

As a matter of fact, I would like to offer in evidence in support of the motion to suppress the entire testimony of Daniels and Grimsley that was given in this court.

I would, if possible, like to offer in evidence and obtain from Mr. Daniels the machine itself by which the conversations were recorded.

I would like to offer in evidence transcript

Pages 6506 through 6508 wherein during the examination of Mr. Grimsley the Court stated that the government had given the Court recordings of telephone conversations but the Court had not read them.

I would also like to request and ask the government pursuant to subpoenas which were served on Mr. Reddy, Mr. Neal, Mr. Hooker and Mr. Sheridan to produce for inspection all FBI reports and memoranda relating to the case for the purpose of showing what was done and what use was made of the recordings to establish the question of leads and thereupon, upon receipt that the examination by the defense, I offer those documents in evidence so that the Court may inspect and determine then which of those are pertinent to ascertain whether leads were developed through the use of these recordings.

I suggest to the Court that at this time the defense on behalf of all the defendants, I think I am speaking on behalf of all the defendants, we move that on the basis of this testimony and documentary evidence that the Court suppress the telephone recordings of October 8, October 18, 1962, and all leads that are developed therefrom. And I suggest to the Court that all such leads are as follows: All testimony, documents, and statements made by the Witness Partin resulting from his appearance in Nashville on or about October 22, 1962, and continuing from time to time

thereafter through on or about December 19, 1962, and all leads obtained from any information that was furnished by the Witness Partin therefrom.

It is our position that the telephone calls themselves constitute an illegal endeavor by the government. It was an illegal recording. That anything that flows therefrom should equally be suppressed.

Your Honor, this is my offer of proof. I offer those things which are documentary in evidence and I ask that the Court recall Mr. Daniels for the purpose, Mr. Daniels and Mr. Grimsley, for the purposes I have outlined.

End Tk 38
38A fls.

THE COURT: All right.

MR. SILETS: May I have a moment, your Honor?

THE COURT: Yes, sir.

MR. SILETS: Your Honor, and, of course, the culprit in the affair, I think, should be recalled, Mr. Partin, so that we may ascertain from him the exact activities he participated in with these conversations.

Might I have the Court's indulgence?

THE COURT: All right. Yes. Gentlemen, it is 10 minutes to 5:00. The Court believes it would be appropriate to take these matters up the first thing in the morning unless you wish to make any further statement this evening on it.

MR. NEAL: No, your Honor, not on that. I am concerned about one thing, I assume by the time we get the hearings out of the way and submit an argument on the requested instructions which I understand is required to be done before argument, there will be no argument tomorrow? I want to know whether I am going to have to stay up all night, Mr. Hooker and I and Mr. Reddy, or not.

THE COURT: Well, of course, I am unable to determine how long this may run tomorrow.

MR. NEAL: I had one suggestion, your Honor, in view of the desire not to --, the defendants not to split up the argument, the government has no preference on this one

way or the other. We can argue tomorrow. Part of it. And then we can finish up whenever the defendants are through. We have no preference on it. However, I would like to know, it doesn't look like to me we are going to get to it tomorrow. If we had some time, my suggestion was, that if your Honor could tell us or we can get together on the surveillance hearing, we might have time to finish that tomorrow afternoon and save the time on that.

If your Honor can tell us what FBI agents would be necessary or if the defendants can tell us, we can make any endeavor to get them here tomorrow afternoon and have an afternoon session on the case any time tomorrow.

MR. SILETS: Your Honor, I would like the Court and Mr. Neal to know that I don't try and it has never been my practice to subpoena anybody that I didn't think was necessary. I have subpoenaed those parties I do think is necessary.

MR. NEAL: Well, if the Court desires, or if we can get together, whatever they think is necessary, if we can have the hearing tomorrow afternoon on that, my point is, your Honor, it doesn't look like to me we are going to have enough time to go into argument tomorrow.

We have instructions to work out. I'm sure there will be some conflict and argument on instructions. However, we might have some time to get not enough argument, if we can

take that time in hearing, it might be desirable. We are willing to do whatever is convenient as far as getting the FBI agents here if we know now, we will start to work getting them here so they will be here tomorrow afternoon and we can take that hearing.

THE COURT: Well, of course, I just hate for the jury to have to stand aside all day tomorrow while we take up these matters, but if that is necessary, I suppose it is necessary.

MR. NEAL: Would it not be, would it not be a matter of convenience, expeditiously, matter of expedition here, for everyone, for us to start getting the agents here tomorrow and go through that tomorrow if we have any time at all? Even if it took some time tomorrow night?

THE COURT: I would think that we would be wise to pursue that in the manner in which the Court has indicated and at the time the Court has indicated.

MR. NEAL: Well, I am not taking any exception to that. It is a mere suggestion.

THE COURT: I would like to use the time tomorrow fully also, I mean, use the time of the jury tomorrow if we can.

End 38a
38b fls

MR. HOOKER: We understood the defendants want to divide their argument between tomorrow and the first of the week, and--

MR. BRANSTETTER: (Interposing) We don't mind the government doing it, though.

MR. HOOKER: You wouldn't mind if we would open the argument tomorrow?

MR. BRANSTETTER: Whatever the Court says.

THE COURT: I believe the argument should be heard at one time. Or approximately at one time, not divided.

Now, then, gentlemen, the Court understood that you were going to submit not later than tomorrow morning the requests for charges, including the request for charges of theories of the respective parties.

MR. BERKE: Is the Court asking a question? I didn't hear you.

THE COURT: No. I was merely making a statement.

MR. BERKE: I am sorry.

MR. BRANSTETTER: I believe it was, may it please the Court, a suggestion that counsel would submit on Friday morning proposed instructions. I believe we discussed that.

MR. NEAL: That is counsel for both sides?

MR. BRANSTETTER: Yes.

MR. BERKE: That's right.

THE COURT: Yes.

MR. BERKE: If your Honor please, I think all counsel agree, including the government, that it will take a half a day or better to argue the instructions. Probably take longer than that. And I don't think that there will be any time for argument tomorrow.

THE COURT: Well, it would--reluctantly I feel I would have to agree with you on that. I say reluctantly merely because I say I hate to have the jury standing aside all day tomorrow.

Now, then, gentlemen, so far as the Court knows, it has ruled upon all objections and all motions other than the motions which have been expressly reserved, the motion on the telephone recordings, and the motion relating to surveillance.

MR. SILETS: Your Honor, the defense will have, depending upon the Court's ruling--

THE COURT: (Interposing) What I am suggesting is this, that all objections or all motions that may not have been ruled upon would be considered waived unless the parties would specifically call them to the Court's attention again tomorrow. In other words, if there are any pending motions or any pending objections that the Court has not ruled upon, those should be specifically called to the Court's attention tomorrow or otherwise they will be considered to have been waived.

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MR. HAGGERTY: May I address the Court?

THE COURT: Yes.

MR. HAGGERTY: Am I interrupting the Court?

THE COURT: No, sir. No, sir.

MR. HAGGERTY: Your Honor, will there be some indication what and when action your Honor is going to take up on the matter talked privately in chambers today?

End Tk 38B
Tk 39 fls.

THE COURT: Yes, I will take that matter up in the morning. Sir?

MR. HAGGERTY: So there be no mistake about it, your Honor, I have one more motion which I will file tomorrow.

THE COURT: All right. Gentlemen, I believe that completes all of the matters that we can appropriately --

MR. SILETS: (Interposing) Your Honor, may I just state for the record that the defense, specifically the Defendant Dorfman, will have motions. I think all of the defendants will have motions to file with the Court following this motion to suppress.

THE COURT: All right.

MR. NEAL: The government then understands that the ruling of the Court is still with respect to the 30 FBI agents and the Assistant Director of the FBI --

THE COURT: (Interposing) We will not take that matter up until after the case has been submitted.

MR. NEAL: They can stand by until further orders of the Court.

THE COURT: Yes.

MR. SCHIFFER: I have some supplemental exhibits to file with the Court tomorrow in addition to some motions which we have filed and ask your Honor's kind indulgence to put them in tomorrow.

THE COURT: All right.

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MR. SCHIFFER: Thank you.

THE COURT: If there is nothing further, let's adjourn court until 9:00 o'clock tomorrow morning.

(Thereupon, at 4:58 o'clock, p.m., court was adjourned until 9:00 o'clock, a.m., February 28, 1964.)

End 39

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 27, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 27th day of February, 1964.

Fred B Downing

Official Court Reporter

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	NO. 11,898
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

Date: February 12, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XIX

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DEFT. COPY

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TK 1
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EIGHTEENTH DAY OF TRIAL

9:00 O'Clock A.M.
February 12, 1964

(Thereupon, pursuant to adjournment from February 11, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and the following proceedings were had, to-wit:)

MRS. SILETS: If your Honor please, I have one very small matter. Checking the record I believe there must be a typographical error on Page 2215, Volume 10, it is the testimony of Miss Pettijohn when she was referring to a conversation she had with Mr. Tweel in the Sportsman's Bar.

Mr. Hooker asked a question and instead of the name Tweel appearing in the question the name Dorfman appeared and the very next question Mr. Hooker said, "What did Mr. Tweel say next?" or something of that sort.

There was no testimony by her involving Mr. Dorfman at all and I would like the record to be correct.

THE COURT: All right. The Court will check that record.

Now, gentlemen, one other matter just to straighten up in the record. Mr. Schiffer, I believe that you filed a motion on February the 10th, 1964, entitled "Defendant Thomas Ewing Parks Motion to Withdraw Juror and declare a mistrial,"

and attached as exhibit to that an affidavit of one Bernard Spindel and then delivered to the Court during the noon recess on that day an envelope entitled "Exhibit A to Ewing Parks' Motion" and being notes of Mr. Spindel. That is correct, isn't it?

MR. SCHIFFER: That is correct, your Honor.

THE COURT: Do I understand or am I to understand that the motion, copies of the motion and the exhibits, were or were not given to the government?

MR. SCHIFFER: The copy of the motion itself, your Honor, was given to the government but the exhibit was delivered to the Court, first to the Clerk for endorsement and then entered on the minutes, then the sealed enveloped in which the exhibit was contained was delivered personally by me to your Honor in chambers unopened.

THE COURT: Was there any reason why a copy of that was not given to the government?

MR. SCHIFFER: Only because of the subject matter which it contained in view of the state of the law which we did not want anything published in that because it was submitted for the Court's perusal and as an aid to the Court to prevent the miscarriage of justice induced by the government itself.

THE COURT: Well, I take it you were aware of the contents.

MR. SCHIFFER: I was not of what the actual contents are.

THE COURT: Well, why would you say then that you did not deliver a copy of it to the government, why would you not give a copy of it to the government?

MR. SCHIFFER: Because of the circumstances under which I secured the aid or the assistance of the Court was not to inform me or to advise me but to advise the Court so that whatever is in that envelope as it was delivered to your Honor was as gathered by Mr. Spindel and delivered directly to the Court from him in that form without anybody seeing the contents of that envelope so that he, only he and your Honor had knowledge of what was in that envelope.

THE COURT: Well, was it not for the purpose of that to make that a part of the court record, the same as any other motion?

MR. SCHIFFER: No, because this is an unusual circumstance. It is rather unusual when the defense alleges, as we have, that the government is transgressing all the rights of the defendant and since the government has undertaken to break the law itself, the government itself in that instance was an outlaw, and when the government proceeds to become an outlaw then we feel that the only form in which that could be corrected is by the Court and, therefore, Mr. Spindel's services were enlisted as an aid to the Court and

1 - 4

not as an aid to any specific defendant or any or all of them.

THE COURT: Well, at the same time you filed the motion you also filed a memorandum of law.

MR. SCHIFFER: There was a memorandum of that, yes, sir.

End Tk 1
Tk 2 fls.

THE COURT: I take it that the memorandum of law was addressed as to which the legality of the exhibits, A and B, was it not?

MR. SCHIFFER: I don't believe that was in my motion, Your Honor. I would have to refer to the record again because there were two motions filed on the same subject, Your Honor.

THE COURT: How would you know how to file a brief on a matter if you didn't know what the exhibit was?

MR. SCHIFFER: For this reason, the circumstances under which I enlisted Mr. Spindel's services were this; there came a time when I became very aware that the government was transgressing the law. I decided to enlist the services of an expert in the field. I did so with the understanding that all he would indicate to me was whether it was negative or positive as to his findings. If it was negative, he was to pack up and go home. If it was positive he was to collate all his information. Seal it. And deliver it to the Court. So that all he indicated to me was that he had positive results as a result they were transmitted to the Court.

THE COURT: All right. Now, then, with regard to the motion filed on February 10th by Mr. Silets on behalf of Mr. Dorfman supported by the affidavit of Mr. Z. T. Osborn, in response of the government to that motion, is

there any further offer of proof in that respect?

MR. SILETS: Your Honor, I think I will be able to obtain affidavits of another attorney who contacted Mr. Hooker and with the Court's leave if I may have a day or two to attempt that?

THE COURT: All right. All right. May we have the jury and the witness returned?

MR. HAGGERTY: There is one more matter, Your Honor. I'm filing two affidavits in support of a motion heretofore filed in reference to surveilance. The affidavit of Mr. Marvin Berke and the affidavit of Mr. William E. Buffalino.

And in addition thereto, photographs as photographs speak positively and positively support our claim as to surveilance.

THE COURT: All right.

MR. HAGGERTY: The photographs are exhibits; I have marked them for convenience "A" through "H". Now, these are original photographs. I haven't copies to serve the government. However, I will serve them with copies of the affidavit and I renew my motion again for a hearing on our motion for surveilance.

MR. SCHIFFER: Defendant Parks, Your Honor, joins in the motion.

MR. SILETS: Your Honor, on behalf of the

Defendant Dorfman based upon these affidavits I move for a mistrial.

MR. NEAL: Your Honor, we are being pretty well left out of things filed here on behalf of or in support of these motions. Now we have endeavored to serve defendants and actually all defendants with copies of everything we have filed. And yet time after time they say they are filing these things but are not serving the copy on the government.

MR. HAGGERTY: Mr. Neal, I call to your attention these are photographs. If you wanted me I will be happy to give you a photostat of the photographs but I don't think they will be very satisfactory to you. So they are in the Court and you may examine them at any time.

THE COURT: Let's file the affidavits as part of the court record and as part of the motion made on behalf of Mr. Hoffa in this respect. May we do so?

MR. HAGGERTY: Yes, Your Honor.

THE COURT: May we file the photographs--, let me ask counsel, should we file those in the record and identify them? Give them a number?

MR. HAGGERTY: Yes, sir.

THE COURT: For purposes of identification only?

MR. HAGGERTY: Yes, sir. And they are made a part, I might say of Mr. Buffalino's affidavit by reference.

THE COURT: All right. Well, if they are made a part of his affidavit by reference, perhaps we should just file them in the record, in the court record, as a part of the motion then as an exhibit to the motion.

MR. HAGGERTY: I think that would be the better way, Your Honor.

THE COURT: All right. Allow them to be filed by the clerk then along with the affidavits as being exhibits to the motion. Then allow the motion for hearing at this time--, allow the same entered or the same ruling of the Court the Court has heretofore made with regard to a hearing be entered at this time and overrule the motion for a mistrial.

MR. BRANSTETTER: I assume, may it please the Court, that that motion for a mistrial goes to the other defendants also?

THE COURT: Yes, sir. May we have the jury returned?

MR. NEAL: Without, of course, influencing the Court in either way, the government will answer these motions with respect to surveilance point by point with affidavits.

End 2
Tk 3 fol.

THE COURT: All right. May we have the jury returned and have the witness returned?

(Thereupon, the jury of twelve and four alternates returned into open court and the following proceedings were had, to-wit:)

THE COURT: Good morning, ladies and gentlemen, we are awaiting the arrival of the witness.

MR. BRANSTETTER: May I proceed?

THE COURT: All right, Mr. Branstetter.

EDWARD GRADY PARTIN,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

FURTHER CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Partin, on yesterday you stated that you were out of Baton Rouge for considerable periods of time, 60 or 70 days, living in hotels, motels, and so forth. Was this in various parts of the United States?

A Yes, sir.

Q Was it mostly confined to the Louisiana area?

A Some of it, not all of it, no, sir.

Q Over what period of time did this extend?

A I would say a four-to five-month period, it was over a period of time, it wasn't 60 or 70 days straight.

Q Are you testifying you would be out for a day then you would come back and out for another day, is this the type?

A Well, sometimes, sometimes I would be gone three or four days, sometimes longer.

Q During that period of time who was running the union, Local No. 5?

A Well, they have the Executive Board there and they had Mr. Bennett, the president, Mr. Jones, the assistant business agent, Mr. Pettyclose, assistant business agent.

Q Were these trips or travels in relationship to what you have been testifying about heretofore?

A Sir, I wouldn't think they was in relationship to that altogether, no, sir.

Q Were they partially in relationship to what you have been testifying about?

A I would -- I think you would have to ask someone else, I wasn't told the details of it at all.

Q Who were you dealing with?

A Mainly Mr. Sheridan and Mr. Grimsley.

Q Mr. Grimsley and Mr. Sheridan?

A Yes, sir, uh-huh.

Q Were some of these trips during October, November, and December of 1962?

A I don't believe so, I don't think so. It may have

been one or two but I don't think so, most of them -- it was confined to '63.

Q How many trips did you make to Washington, D. C., that you speak of?

A On everything, considering everything?

Q Yes.

A I would say maybe two in that period of time.

Q And each time did you meet Mr. Sheridan and Mr. Grimsley?

A No, sir.

Q With whom did you meet those two times?

A I talked to Mr. Hoffa, I believe, on the other occasion.

Q In Washington?

A Yes.

Q Was that in relation to this trial?

A No, sir, I don't think it was.

Q Well, I am interested in the trips that you made with Mr. Sheridan or Mr. Grimsley or the times that you met with them in relationship to this particular testimony that you are giving.

A I didn't say I had made any trips with them, sir.

Q Or to meet them?

A Well, those 60 or 70 days wouldn't have been meeting with them every time, sir.

Q Would it have been meeting with government agents?

A No, sir. It may have been, frequently I may have seen them but not as a rule, no.

Q Were these trips for which you were to be reimbursed?

A That would be the period of time that would be considered in that, those 60 or 70 days, whatever it was, I'm just guessing at the time.

Q Now, you stated something about -- did you say you were hiding out in motels yesterday at one point in your testimony?

A Sir, I was staying anywhere I could stay, mostly the motels, yes, sir.

Q Well, did you say that you were hiding out, is that the word you used or did I misunderstand?

A Well, I will put it this way, I wasn't anxious to be known where I was at, you call it hiding, I wasn't scared but it was just the advice of other people, nothing I was scared of by far.

Q You are not afraid of anybogy or scared of anybody, are you?

A No, sir, I certainly am not.

Q Not now and you never have been?

A Well, I'm not physically scared of any of them, I will put it that way.

Q So you --

A (Interposing) If I can see them.

Q You are not stating you are hiding out from fear of someone, are you?

A Sir, I didn't finish.

Q Excuse me, go ahead.

A If I can see them I am not afraid of them physically.

Q But your hiding out was at the suggestion that somebody might discover you, not that you had any fear?

A Well, I don't know, sir, you would have to ask them what the reason would have been, I am not -- I didn't question the reason, I figured that they knew well enough what they were doing, if it was suggested or even hinted I would have done what they said do.

Q Sure, you would do whatever Mr. Sheridan or Mr. Grimsley said for you to do, wouldn't you?

A And a lot of times what the membership told me to do.

Q Was the membership telling you what to do with reference to the trial in Nashville?

A No, sir. Oh, they told me I could go up there and visit Mr. Hoffa.

Q Were they telling you what to do when you were making these various trips, the membership?

A No, sir, they didn't question me about them.

Q Now, do you have a hobby of gun collecting?

A I wouldn't call it a hobby, I am fond of collecting guns and fond of collecting photographs of ball games, football players, hobbies like that.

Q But you stated, I believe, originally that you were a gun collector?

A Well, I haven't got the money to be a gun collector but if I get a hold of one I keep it.

Q Do you usually carry a gun?

A No, sir, I think I could with the credentials I have but I didn't carry one, I keep one in my car but all of my guns are registered, sir, they are bought and registered and paid for by myself.

End 3
4 fls

Q Do you carry some guns in the back of your car?

A Oh, yes, sir.

Q How many?

A I don't know. I had to take them out, they are all rusted.

Q How many?

A I had to take them out. They are all rusted. I left part of them at my mother's house, scattered all over. I used to have a gun case to keep them in when I married and lived with my wife. I don't have any now. I took them out quite a while ago.

Q You state now that you don't have them in there at the present time?

A No. They rusted, sir. I said they were all rusted.

Q Now, you a few days ago had some difficulty in remembering when you were married. I hand you up here what purports to be a certified copy of a judicial proceeding and ask you if you will look at the first paragraph and see if you can identify what it is and also if it refreshes your recollection as to when you were married?

A Refreshes my memory as to what?

Q As to when you were married.

A It seems that that's correct. I would have to look at the--

Q (Interposing) What is the date that it shows?

A September 27, 1949, but I would have to look at the marriage certificate. I don't know what this is.

Q You don't know whether that is correct or not?

A No, sir, I don't.

Q What is that, by the way, can you identify it?

A Says Family Court of East Baton Rouge Parrish.

Q Well, you have seen that before, haven't you?

A I have seen so many of them, sir, I don't know whether this is one I have seen or not.

MR. HOOKER: If your Honor please, are we going to try this other civil case now? We object to this.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q On yesterday you testified with reference to the money that had been paid to your wife or on your behalf and I will hand you here what purports to be a court order--soon as he identifies it--and ask you if you can identify the order?

MR. HOOKER: We object to it, if your Honor please. Immaterial.

MR. BRANSTETTER: Let him identify it.

THE COURT: Let's see what we are talking about. Let me see the document, please. Sustain the objection.

MR. BRANSTETTER: Let the record show that that

is a certified copy of an order from--

THE COURT: (Interposing) All right, well, sustain the objection. If you wish to file it as an exhibit for identification, you may do so.

MR. BRANSTETTER: I would like to file it as an exhibit for identification. Ask the witness if he can identify it.

THE CLERK: Going to file that, your Honor?

THE COURT: No, sir, not that one.

THE CLERK: That will be No. 127.

(The court order referred to above was marked for identification Exhibit No. 127.)

BY MR. BRANSTETTER:

Q I will hand you here what purports to be a court order certified in character--

MR. HOOKER: (Interposing) We object to it, if your Honor please.

MR. BRANSTETTER: Norman Jean Partin--

MR. HOOKER: (Interposing) We are objecting to it.

THE COURT: In order to pass on it, let the Court see the document.

MR. BRANSTETTER: I think I can finish the question, may it please the Court.

MR. HOOKER: We are objecting to it. May as well

read it.

THE COURT: May the Court see the document? See what we are--

MR. BRANSTETTER: (Interposing) Versus Edward G. Partin. Order.

MR. HOOKER: We made the objection, if your Honor please. It looks like counsel is just determined to read it.

THE WITNESS: Your Honor, I am confused, it must be a family court. Is that what it is? Thank you.

THE COURT: Sustain the objection.

MR. BRANSTETTER: I would like to have it filed for purposes of identification and also, may it please the Court--

THE COURT: (Interposing) All right.

MR. BRANSTETTER: I specifically laid a foundation on yesterday to ask this man this particular question and that is if he had stated specifically that he had not been held in contempt nor had he been restrained from certain conduct and this order shows to the contrary.

MR. HOOKER: We object to that statement, if your Honor please.

MR. BRANSTETTER: Giving my reason, I think.

MR. HOOKER: We object to the materiality of it.

THE COURT: All right, I will sustain the

objection at this time. I will look further into the matter. Exhibit No. 128, the last exhibit introduced for identification.

(The court order referred to above was marked for identification as Exhibit No. 128.)

MR. BRANSTETTER: Do I understand the Court then has reserved ruling as to whether or not I can cross examine on this specific matter?

THE COURT: I have sustained the objection. I will, however, consider the matter further in reviewing the records, Mr. Branstetter.

BY MR. BRANSTETTER:

Q Mr. Partin, do you know a Mr. Stevak and Mr. George?

A Stevak and George?

Q Yes.

A The names are familiar, I can't place them offhand.

Q I want to ask you a specific question, and if you will let me finish I will appreciate it. I will ask you whether or not approximately two and a half weeks ago if you did not receive a wire from Mr. Hoffa directing you to remove the picket line from the Tidewater Construction job. Then after you had received this telegram that you went into your office, closed the door, and that Stevak and

George heard you on a phone stating that you had received this wire, that if you were required to take the pickets off of that particular job that you would go to Chattanooga, Tennessee, and testify that Mr. Hoffa had told you and one Emmett Tucker that he would give $10,000 to bribe a juror in Nashville? Did you have such a conversation?

A I don't remember that conversation at all.

Q This is approximately two and one-half weeks ago in your union office in Baton Rouge, Louisiana.

A You are going to let me answer you?

Q Yes.

A I remember telling the International what I told them. I remember very distinctly what I told them. I think they can tell you. I was on the phone talking to Mr. Tommy Owens, he didn't misunderstand. He didn't misunderstand at all.

Q You do know a Mr. Stevak and a Mr. George?

A I said evidently. I have heard the names.

Q They are members of your union?

A I couldn't say that.

Q Do you recall whether they were present when you were making this telephone call?

A I never told you I made a telephone call. You said it.

Q Well, did you make the telephone call?

A I said I don't remember any such phone call as that. If I did I would be happy to say it.

Q All right, did about eight again--let me ask you this, are you denying that you called or purported to call two and a half weeks ago and state that if this picket line had to be removed that you would testify in Chattanooga against Mr. Hoffa and state that he had promised you and Mr. Emmett Tucket that he would give $10,000 to bribe a juror in Nashville?

A Who in the world am I supposed to be calling?

End Tk 4
Tk 5 fls.

Q Mr. Hoffa was who you told the people you called?
A I didn't talk to Mr. Hoffa on it, I wanted to talk to him but he was enroute between Chicago and Nashville and Chattanooga. I would have been happy to tell you what I told him if I could have caught up with him as far as what we thought about the picket line.
Q Now, did you make such statement as I have just read to you approximately two and one half weeks ago?
A Mr. Branstetter, I have told you I don't even know what you are talking about.
Q You can say yes or no.
A No, I can't say yes or no because you're saying I made a statement one time, the next time I made a phone call, now, which is it?
Q Now, the statement was contained in your phone call. I don't want to mislead you, I want you to very clearly understand. I am laying this foundation, Mr. Partin.
A You are laying one but it ain't right.
Q But you did not make such a statement as your testimony?
A You are asking me a statement or a phone call?
Q Both.
A Well, I don't know, sir, I don't recall one.
Q All right. We will take it apart then. Did you make such phone call?

A I don't recall a phone call along those lines at all.

Q All right. Did you make such a statement?

A Not that I can recall, sir.

Q All right.

A If I had I would be happy to tell you, sir. I believe the groundwork was laid for--

MR. SCHIFFER: (Interposing) Objected to, Your Honor, no question has been asked.

THE COURT: Sustained.

THE WITNESS: Yes, sir.

MR. BRANSTETTER: I kind of like to hear this witness talk.

THE COURT: State your next question.

BY MR. BRANSTETTER:

Q I believe you stated you knew Mildred Kelley from Childersburg, Alabama?

A Yes, sir.

MR. NEAL: Objection, Your Honor, it's being repetitious.

MR. BRANSTETTER: I am sorry.

THE COURT: Overruled.

BY MR. BRANSTETTER:

Q Did Mildred Kelley come to Chattanooga with you on--, is she here now?

A She met me up here once, sir.

Q Is this one of your paramours?

A I am not as high society as you on the ladies. Would you mind telling me what you mean by it? I have a different name for them, maybe, than you do.

MR. NEAL: Your Honor, we object.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q When did she meet you in Chattanooga?

A Oh, I don't remember, sir, she came up one time.

Q She came to Nashville?

A Yes, sir.

Q Has she been here since you were here this time?

A No, sir, not that I know of.

Q Did she ever meet you and any governmental official?

A Not that I know of, unless it--, if she did I didn't know it.

Q Did she live in a motel in Baton Rouge--

MR. NEAL: (Interposing) Your Honor, I thought the Court sustained the objection on that.

THE COURT: Sustain the objection.

MR. BRANSTETTER: I am sorry, I thought the Court said I could ask.

MR. NEAL: You know what the Court sustained.

MR. BRANSTETTER: May it please the Court, I fail to understand if my cross examination is being limited here. This gentleman said he is a good family man, he has asserted that he goes to church and they don't ask him these questions in church.

MR. HOOKER: We object to any argument. This is all interesting but entirely improper in a proceeding of this character. We are trying something else here now.

THE COURT: Sustain the objection. Let's proceed with the issues of this lawsuit.

MR. BRANSTETTER: I don't intend to transgress the orders of the Court but I have some questions that are related and if they are transgressing in character I assume they will object.

BY MR. BRANSTETTER:

Q Did you rent Mrs. Kelley a car with union funds?

MR. HOOKER: We object to that.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q Does Mrs. Kelley have a teen age son?

MR. NEAL: Counsel is doing this when the Court has sustained the objection.

MR. BRANSTETTER: I don't know whether it's to the form of the question or the content, I haven't been advised.

THE COURT: If it has anything to do with this lawsuit I will allow you to ask it. If it is unrelated to this lawsuit it is not proper cross examination.

BY MR. BRANSTETTER:

Q All right. Mr. Partin, did you state earlier that you received a bad conduct or a dishonorable discharge?

MR. NEAL: Now, Your Honor, are we going back to last Wednesday?

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q How many court martials were you involved in while you were in the Marines?

MR. NEAL: Your Honor, we object to this.

THE COURT: Overruled.

A I don't believe I have ever had a court martial, I haven't got a dishonorable discharge, sir.

Q Well, you know that they had summary and general court martials?

A The summary is the lowest one you can have, that's what I had.

Q You had a summary?

A (Witness moves head up and down.)

Q Were you given your discharge on the basis of the summary court martial?

MR. HOOKER: We object to it, if Your Honor

please, it has all been gone into.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Do you have a copy of your discharge from the Marines?

MR. HOOKER: Object to that. He has been asked that three or four times.

MR. SCHIFFER: He was never asked that question, if Your Honor please.

MR. BRANSTETTER: If Your Honor please, we have examined this, I think the Court and I will get to another point--

THE COURT: (Interposing) If he can answer the question then, I understood he had answered it the other day.

A No, sir, I don't. I did answer it for him, sir, but if I can be of any assistance to helping you get a fact I will be happy to.

Q Would you give us permission to see if the Government has pulled it out so we can get it? Would you give us a written authorization to obtain it?

MR. NEAL: The government will allow counsel to go through our file to see if he has it.

MR. BRANSTETTER: Could I start right now?

MR. NEAL: You can start right now, Mr. Branstetter, and I object to those remarks, Your Honor.

THE COURT: Sustain the objection.

MR.SCHIFFER: I object to the attitude of Mr. Neal.

THE COURT: Sustain the objection and disregard the remarks of Mr. Branstetter in that regard.

BY MR. BRANSTETTER:

Q Now, where did you talk to Mr. Buffalino about taking the Fifth Amendment before the Grand Jury?

MR. NEAL: Your Honor, we object to this as being repetitious. Mr. Branstetter must want to keep us another week.

MR. BRANSTETTER: May it please the Court, we went through the transcript last night. The questions I intended to ask this witness about his taking the Fifth Amendment before the Grand Jury, the advice he was given, the method and the approach, has nothing to do with anything that has been asked heretofore and if I am going to represent one defendant, Campbell, I expect to cross examine this witness as fully as the judicial processes permit.

THE COURT: Certainly you are entitled to do that as fully as they permit, however, the Court has a distinct recollection that Mr. Schiffer went carefully into the question of just where he talked with Mr. Buffalino.

MR. BRANSTETTER: I am not at all pleased for my client as to how Mr. Schiffer went into it, may it please the Court, and I am not bound by his questions or the answers

given to his questions. If I am then I misunderstand the judicial process.

MR. HOOKER: Well, we submit that dissatisfaction with one another doesn't justify them keeping going over and over.

THE COURT: Allow him to answer this question.

A Sir, without qualifying--

Q (Interposing) No, I haven't asked you a question.

A I can't answer you without qualifying.

THE COURT: Just a moment.

BY MR. BRANSTETTER:

Q I haven't asked you a question. What do you want to qualify right now?

A What you have been--

THE COURT: (Interposing) Just a moment, Mr. Branstetter. You asked him a question, the Court sustained the objection, you argued about the matter and the Court is allowing an answer to this specific question.

A Well, the reasons I can't--

Q (Interposing) Let me ask the question again so we can proceed with it.

A Yes, Mr. Branstetter.

Q What question was asked you when you went into the Grand Jury room first?

MR. NEAL: Your Honor, that is clearly objectionable.

MR. BRANSTETTER: I am trying to determine whether or not, may it please the Court, that we can show an overriding need or purpose in seeing the Grand Jury minutes. I think we have this right under the very well established principles of law.

THE COURT: Sustain the objection.

MR. SILETS: Your Honor, may I call upon the Court to explain what the basis for the ruling is?

THE COURT: Yes, the basis for the ruling is that this is a matter that was gone into very fully yesterday. This witness' testimony before the Grand Jury was gone into very fully on yesterday.

MR. SILETS: Your Honor, I have examined the record and I don't find anywhere where Mr. Schiffer was permitted to inquire as to what the man said in the Grand Jury. The record is void on that topic.

I agree with the Court when Mr. Schiffer went all around the bush about inquiring as to his getting to the Grand Jury room, what happened after he got out of the Grand Jury room, and if anyone counselled or schooled him prior to getting there, but I would like to see if the government can point out to me where in the record there was any inquiry about what happened inside of the room.

THE COURT: The Court recalls that there was but let's proceed then and go ahead, Mr. Branstetter.

MR. NEAL: Your Honor, if they are going to ask these questions over and over again we will be here for two weeks.

MR. SCHIFFER: Your Honor, I object, and I move for a mistrial. I move for a mistrial for Mr. Partin, Your Honor.

Now, Mr. Neal is partaking again of tactics calculated to prejudice the defendants in this case with the jury and I ask that his remarks be stricken and that he be cautioned by the Court to behave himself like a lawyer should.

THE COURT: Well, disregard the remarks of counsel.

BY MR. BRANSTETTER:

Q Could I hand you up a paper that is supposed to purport to be a subpoena to appear before the Grand Jury, sir, and ask you to look at that and see if you can identify it as the subpoena that was served on you.

End 5

Tk 6 fol

MR. HOOKER: If your Honor please, this man has testified that he testified before the Grand Jury and why take up all this time about whether that is the subpoena. I don't understand the reason for it.

MR. BRANSTETTER: May it please the Court, I laid a foundation on yesterday as to the very questions I wanted to ask, if they had not insisted apparently this witness testified what had occurred.

MR. NEAL: Your Honor, if we don't object then how can we stop this repetition and we have an obligation to object.

THE COURT: Let us proceed.

MR. BRANSTETTER: May it please the Court --

THE COURT: (Interposing) Gentlemen, let's proceed without this colloquy.

BY MR. BRANSTETTER:

Q Is this the subpoena?

A It looks like it.

MR. BRANSTETTER: Would you have that marked for identification, please?

THE WITNESS: I said, Mr. Branstetter, it looks like it.

BY MR. BRANSTETTER:

Q It looks like it, Mr. Partin, pursuant to that you appeared before the Grand Jury?

A Yes, sir.

Q And you went into the Grand Jury room and when you got into the Grand Jury room who did you talk to?

A You told me yesterday. You will have to tell me the names again.

Q All right, they asked you what question when you went in?

MR. NEAL: Objection, your Honor.

MR. BRANSTETTER: I don't intend to pursue this if the Court has solidly ruled, I did check the transcript --

THE COURT: (Interposing) What question you have asked him they asked. He can answer.

THE WITNESS: Sir, I remember something about did I make a phone call some time during one of those things. Questions like when I started reading off. You didn't let me finish, sir.

BY MR. BRANSTETTER:

Q I know.

A I know you didn't.

THE COURT: Let him finish his answer.

BY MR. BRANSTETTER:

Q Okay, go ahead.

A When I started reading the thing I had for the Fifth Amendment they got kindly and asked me, said, you refuse to answer? Said do you know, asked me did I know Mr. Hoffa?

Did I make some phone calls. I can't remember all the questions.

Q How many questions did you answer? What did you specifically answer?

MR. NEAL: Your Honor, this is quite clearly has been gone over.

MR. BRANSTETTER: Mr. Neal --

MR. NEAL: (Interposing) Surely has, your Honor, surely everybody must have a distinct recollection it was gone over yesterday.

MR. BRANSTETTER: We could have had it over quite a while ago.

MR. NEAL: We have an obligation. This is the only way we can stop this senseless thing.

MR. BRANSTETTER: May it please the Court, this is not senseless and I move the Court instruct the jury now to tell Mr. Neal that the Court and jury will determine what is senseless and what is not.

THE COURT: All right, gentlemen, if you have finished arguing, let's proceed.

BY MR. BRANSTETTER:

Q Let me ask you this specific question then, when you took the Fifth Amendment in the Grand Jury room, were you then telling the truth?

A I believe it is everyone's right to take the Fifth

Amendment.

Q Answer my question, were you telling the truth? Did you think your testimony would tend to incriminate you?

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

MR. BRANSTETTER: Now that is where we have the law on it, may it please the Court, and we would like to take up with the Court. We have a right to ask that specific question under some of the cases.

THE COURT: All right. Pass the cases to the Court.

MR. SILETS: Your Honor, I have a Thermofax copy of United States versus Cohen, 202 Fed. Supp. 587, and I have underlined some of the pertinent language including a quotation from the United States versus Bonano.

MR. NEAL: May it please the Court, the Supreme Court case of Grunewald versus United States is squarely on this point.

THE COURT: The case of United States versus Buffalino, 285 Fed. 2nd, is that the --

MR. SILETS: (Interposing) That is a citation, your Honor, but also the Bonano case which I believe was the situation with the Appalachian meeting and there the Court said they would not go into the facts of the indictment, but they did consider such activity of giving false and misleading

statements to a Grand Jury as constituting an obstruction of justice at the very same charge that these defendants are being tried on right here.

THE COURT: Well, gentlemen, let's proceed to another subject matter and soon as we have a recess let the Court research this matter further. And then you may be permitted to return to it.

MR. HAGGERTY: May we straighten out one point, your Honor?

THE COURT: Yes, sir.

MR. HAGGERTY: That U. S. versus Buffalino, this is not Mr. William Buffalino.

THE COURT: All right, sir. What was the citation that the government gave?

MR. NEAL: I will have it in just a moment, your Honor. Supreme Court case of Grunewald versus United States, (spelling) G-r-u-n-e-w-a-l-d. I will give you the citation in a moment, your Honor.

THE COURT: All right. Let's proceed, gentlemen,

BY MR. BRANSTETTER:

Q Mr. Partin, do you know a Sol Fox (spelling) F-o-x?

A Not offhand, sir, no, sir.

Q Well, to refresh your recollection I will ask you if on or about November 14th, in the 60-day period, 1962, if you called Mr. Sol Fox at the San Juan Hotel in San Juan,

Puerto Rico, telephone number 791-1100?

A I don't ever recall making one there.

Q I will ask you if you did not call him, a Sol Fox, and ask him specifically on that date that if he did not have some connection with a freight or shipping company who could take cargo to certain places in South America?

A Oh, no. You are dreaming, sir. I have never made a call like that.

Q I will ask you if you did not tell Sol Fox that as soon as he found out the availability of a shipper for him to call you back?

A That is a deliberate lie whoever told you.

Q I will ask you if he did call you back --

MR. NEAL: (Interposing) Your Honor, these questions are clearly improper and Mr. Branstetter knows they are improper.

THE COURT: Sustain the objection.

MR. BRANSTETTER: I don't know they are improper, may it please the Court, because I'm seeking to show by this witness that he engaged in conduct for which the government has given him immunity that involved this very matter that I am asking him about.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Do you know Ernesto Lopez?

A What?

Q Do you know an Ernesto, (spelling) E-r-n-e-s-t-o, Lopez?

A I don't recall.

Q Did you ever receive a letter from him?

A If I did I don't remember it. I may have.

Q Let me hand you and ask you if you can identify -- let you see it as soon as he identifies it. See if that letter is addressed to you and I will ask you if you received it?

A I don't remember the letter as such. This is some of J. D. Albin's and the Senate group that they passed around.

Q Did you ever receive such a letter in the mail?

THE COURT: Mr. Branstetter, isn't this exactly the matter that the Court sustained an objection upon the other day?

MR. BRANSTETTER: It is a matter that relates to it, it is not the same matter. And I asked him to identify it.

End 6
6a fls

THE COURT: Isn't this just another way of trying to get in something the Court has already sustained an objection and allowed you to file as an exhibit in the record?

MR. BRANSTETTER: May I respectfully state to the Court that I have interviewed witnesses since the Court ruled.

MR. NEAL: Now, your Honor, Mr. Branstetter knows this is improper, too.

THE COURT: Yes, it is not proper.

MR. BRANSTETTER: Is the Court ruling then that it is improper, the subject matter or that I cannot lay a foundation to impeach this witness to show that he did receive such a letter?

MR. NEAL: If your Honor please, it is not proper cross examination. It is clearly not proper to be brought out by another witness.

THE COURT: Sustain the objection.

MR. SCHIFFER: Your Honor, may I intrude just a moment? Mr. Branstetter, your Honor, insofar as the Defendant Parks is concerned we ask the jury be excused at this time so we may set forth that this very item that he is going into that Mr. Branstetter is going into is vital to the defense and will show why the government has treated this man with immunity, this witness, and we feel it is vital now at this stage of the proceeding to be able to show this

to the jury.

THE COURT: All right, ladies and gentlemen, you may be excused.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

MR. SCHIFFER: May the witness be excused, your Honor?

THE COURT: All right, Mr. Partin, you may be excused.

(Thereupon, the Witness Partin was temporarily excused.)

MR. SILETS: Your Honor, may it please the Court, may I just interrupt before this argument gets in? The government cited Grunewald and I might give the Court that citation, 353 U. S. 391, Supreme Court, 1957 case. Unfortunately, it is not in point. There the Supreme Court held that it was prejudicial error for the trial judge to permit revelation on cross examination of the defendant of the defendant's plea of the Fifth Amendment before the grand jury in order to impeach his credibility.

Now, this clearly is not the situation here. Here we have the situation where we have a witness. I would like to call the Court's attention to the case of U. S. vs. Sing, (spelling) S-i-n-g Kee, (spelling) K-e-e, 250 Fed 2d.

236. Second circuit case, 1957. Certiorari denied.

THE COURT: 250 Fed.2d. what?

MR. SILETS: 250 Fed. 2d 236. Certiorari denied, 355 U. S. 954.

There the Court upheld the questions to a--this was reversed where the government was questioning a defense witness concerning his taking the privilege before the grand jury. And the Court there said that that was quite proper. Now I submit that when reverses the situation where we have the government doing this, it is also quite proper to inquire of him concerning his grand jury privilege.

F Tk 6A
T 7 fls.

MR. BRANSTETTER: May it please the Court, further along that specific line and the exact reason for pursuing that matter in this, I stated I read the transcript last night and I could not determine where this witness stated whether or not he deliberately lied or told a mis-truth when he said he thought the matters about which they were asking him would tend to incriminate him.

Now, if he committed perjury and if that was a lie before the grand jury, certainly I think we are entitled to show this on cross examination.

MR. NEAL: Your Honor, he testified he didn't know, he didn't know that anything he had done was wrong. I remember the distinct answer that Mr. Buffalino had given him the card and told him to take the Fifth, that was his answer, your Honor, and I submit that has been far beyond what Gruenwald would allow the government to go or defense.

MR. SILETS: Well, your Honor, it seems to me that the issue--

THE COURT: (Interposing) Just a moment in that respect, gentlemen, let me check my notes. My notes indicate I don't have the page citation, "That he talked with Mr. Buffalino. Mr. Buffalino gave him a typed sheet which he read and told him to copy in his own handwriting in case it got into the wrong hands he didn't want anyone to know where it came from. He thought about talking with Mr. Sheridan but

Mr. Sheridan was not in the grand jury, that when he took the Fifth Amendment in the grand jury he did not think it was wrong."

Now, is that not in the record, gentlemen?

MR. SILETS: Your Honor, may I just be heard for a moment? I don't want to steal Mr. Branstetter's thunder.

THE COURT: First, is that or is that not in the record?

MR. SILETS: I don't believe you have gone far enough, if I may point to the Court Pages 4530 and 4531 and 4532 where Mr. Schiffer was questioning and again he was having some little difficulty with the witness and says, "Let me finish the question, please. Did anybody tell you that it is a federal crime for a witness before a grand jury to invoke the protection of the Fifth Amendment when in truth and in fact that they are not doing that in a lawful spirit provided by law under which you can take the Fifth?"

Then Mr. Neal said, "Your Honor, that is no law." All right, I gather this is a mistake on the reporter's part, I think I recall him saying, "That is not the law." Then the Court sustained the objection. That is the only time that question has ever been asked.

THE COURT: What page are you on?

MR. SILETS: Yes, sir, it's Pages 4530, 4531 and

at the top of Page 4532.

MR. NEAL: Your Honor, they are bound by the answer of the witness. He said that he didn't know he was doing anything wrong. You can't commit perjury unless you do something wrong.

MR. SILETS: Mr. Neal, I refer to the record. The witness never got a chance to say anything, your Honor, because Neal, in his inamiable fashion, objected.

MR. NEAL: May Mr. Silets address the Court, your Honor, rather than government counsel?

MR. SILETS: I believe I was addressing the Court, your Honor.

MR. NEAL: I was referring to the--

THE COURT: (Interposing) Gentlemen, let's not have further argument until the Court can have an opportunity to look on the record. It was substantially later in the record, Mr. Silets, from the pages you cited, but let's see, you have cited the Court to Page 4527, is that correct?

MR. NEAL: No, sir, 4530, 31 and 32.

THE COURT: All right. If you look at Page 4546 he was asked the question, "Now, Mr. Witness, at the time you personally took the protection and invoked the Fifth Amendment to the Constitution of the United States before the grand jury, you, in your own mind, knew that you were doing the wrong thing, isn't that a fact?

"Answer: I didn't know it was wrong.

"Question: Didn't know it was wrong?

"ANSWER: No."

MR. SILETS: Your Honor, this is not the question I think that is in issue, the question is was he telling the truth. Now, if he wasn't telling the truth and the government knew he wasn't telling the truth and they encouraged him not to tell the truth somebody is suborning perjury.

MR. NEAL: Your Honor, he has always answered the question, whether the government told him to do that or not, and that's back previously to what your Honor has just stated.

THE COURT: All right.

MR. SILETS: Now, your Honor, may I suggest if the sole and exclusive reason for the Court sustaining an objection on this point is that of repetition it is a matter which can be cleared up with one question, with one answer. If he was telling the truth he can answer that, if he wasn't telling the truth then the defense should be able to examine him on the motives for his not telling the truth.

This is extremely pertinent and extremely relevant and I think in light of that relevancy and that need that any repetition can be subservient to it and should be, I mean it just seems to me for the sake of repeating, if the Court feels it's repetition of one question, that the

interest of these men's liberty is more important than the repetition of one question.

THE COURT: All right.

MR. SCHIFFER: Your Honor, on the point for which I asked the jury to be let out for a spell, your Honor knows what my theory of the defense has been all along as far as government illegal activities is concerned, led by Mr. Neal and Robert Kennedy and all the group associated with them.

Now, if in fact it can be shown that by this letter to which objection was made by the government, if in fact it can be shown by the prior testimony of this witness and the present testimony of this witness and that could be elicited that in substance and in fact and in all truth this man had committed and is committing treason against the United States of America by trafficking or attempting to traffic with Fidel Castro and ship him arms despite the public laws and the enunciations of the United States insofar as Cuba is concerned under its present dictatorship, then I want to show that one of the motives for this man to perjure himself is because he got immunity from Mr. Neal and all those of the Department of Justice associated with him.

THE COURT: Mr. Schiffer.

MR. SCHIFFER: And--

THE COURT: (Interposing) Mr. Schiffer, do you have any conviction, record of any conviction of that in any

respect?

MR. SCHIFFER: I am not talking about conviction.

THE COURT: Just answer my question. Do you have any record of a conviction in that respect?

MR. SCHIFFER: I don't have to prove convictions as a matter of law.

THE COURT: We are not going to go off and try a half a dozen other lawsuits in this lawsuit.

MR. SCHIFFER: Pardon me, your Honor.

End Tk 7
Tk 7A fls.

THE COURT: I have given you very broad discretion. The only conclusion the Court can draw on this is you are seeking to degrade a witness by unsupported charges. If you have a conviction you can bring it in but we are not going into this case and try some alleged treason charges, as you say.

MR. SCHIFFER: I don't say to try the treason charge, Judge, but I want to show the motive as to why he is perjuring himself that he got immunity from the government and they won't prosecute him for the highest crime known to society in this country, treason. That is why he is perjuring himself and I believe we have an absolute right and a duty to show in this record that this man has a deal with the government and they won't even prosecute him for treason when they know that he has been trafficking in the past and attempted to traffic by delivering to Fidel Castro arms which he used against people of the United States. If that is not a reason to attack his credibility, then I think the whole trial is a farce.

MR. BRANSTETTER: May it please the Court, I want the Court clearly to understand that I am not trying in any method that I conceive to be improper in any respect to get evidence in that has been previously rejected and pursuing the matter the other day there were two witnesses that came up that I talked to, I want this in the record, and I asked them specifically about this letter. I have a witness who took it

to a teacher to have it interpreted and written out, the body of it.

Now, the purpose of this evidence is simply this, that if this person has engaged in illegality of any sort with Cuba or any other manner it makes no difference, but if he has engaged in illegalities and the government has by inference or by direct statement offered this person immunity or that they will not pursue it or prosecute him it shows a bias for prejudice in favor of the government and every rule in the books of evidence say we are entitled to use it.

Now, may it please the Court, further when we handed this letter up just now, not the pamphlet that has been referred to, all I asked was if he could identify this. If this witness says, "I never saw this before in my life, I cannot identify it, it is not my name on it, I did not receive such a letter." That ends the matter. I will concede that, but the Court has never let us do this because of the insistent objections and we have wasted hour on hour when the whole thing could have been concluded in five minutes.

MR. NEAL: Your Honor, Mr. Branstetter said he is not trying to get in something or inflame the jury on something that hasn't been ruled on before. Let me show the Court the letter, the photostat of something or another, this is a photostat this time of something and I point to your Honor the document that they tried to get in before and let's just

let the Court judge what Mr. Branstetter is doing.

MR. SCHIFFER: As far as Mr. Parks, the Defendant Parks is concerned, I will concede that it will inflame the jury but it will inflame the jury because they are patriotic American citizens and they would want to know in this case whether the man who is on this stand is telling the truth and should it turn out that the evidence discloses that he has committed treason and the government is giving him immunity and will not prosecute him on those charges, then I say they have a right to conclude on those facts that all of his testimony was bought and paid for by the government, therefore, his credibility is at stake, the jury is entitled to hear it.

MR. NEAL: Your Honor, on that regard this witness has testified several times that he has never been given anything, never has been promised anything with respect to his testimony. Now, they are bound by those answers. Let's see if they can prove otherwise.

MR. BRANSTETTER: May it please the Court, we are not bound by those answers.

MR. NEAL: You are bound as far as cross examination is concerned.

THE COURT: Well, gentlemen, I see no profit in further argument of this. The Court sustains the objection.

MR. BRANSTETTER: Could we appropriately file this at all in the absence of the jury?

THE COURT: You can file it for the purposes of identification. It has previously been filed for identification, however, as a part of the handbill.

MR. SILETS: Your Honor, so that the record may clearly and precisely show, may I inquire of the Court the basis for the ruling? Is it one of repetition? I don't think it can be because it was never gotten into, the objection had been sustained in the first instance, so with all due deference to the Court, so that I may know the basis and if I can bring cases to the Court to point out the fallacy in the Court's decision.

THE COURT: Well, if the defendants have any record of any conviction in these respects you will certainly be permitted to cross examine him upon it. You will not be permitted to cross examine him upon alleged charges made from some unsupported source when the only purpose of the alleged charges would be to attempt to degrade the witness or to inflame the jury.

MR. SILETS: I filed a brief on this topic with the Court and if I may I would like just to quote one paragraph on page 3 of it, "As affecting a witness' character and bearing on his credibility inquiry may be made on cross examination into subjects as the witness' identity, his history and environment, his past life, his conduct or misconduct, his mode of life or ways of living and his occupation or voca-

tion."

Now I cite to the Court the varied cases under 98 Corpus Juris Secundum, Witnesses, Section 515, pages 424 and 425.

End 7a
8 fls

If Your Honor please, my position is if this man's credibility is such that it can be impeached and this is a mode or method by which it can be impeached we should be permitted to do so.

Now, if we were restrained from attacking the man's credibility of his associations, his background, or whatever activity he is engaged in and restrained only to his convictions for felony matters, this same fashion as a defendant is protected when he takes the witness stand, then there is never going to be any opportunity for the witness to be shown to the jury to be an inconceivably, pathological liar as this man is.

Or in the alternative that he has dealt with persons of such a character that his testimony should not be believed.

THE COURT: I believe the matter has been--

MR. BERKE: (Interposing) May it please the Court, may I call the Court's attention to one thing, I recall in my cross examination of this witness, I asked this witness if part of the reason he met Mr. Buffalino down in New Orleans--

THE COURT: Gentlemen, I have heard your arguments on this matter. If it would serve any purpose I will be glad, we will just stay here all night, all night and you can just argue it as long as you please. After four-thirty. We're

not going to delay the trial of this case to take up these repetitious arguments. At four-thirty this afternoon I will stay here and just listen to you as long as you wish to argue on this subject. I have sustained the objection. I think I have sustained it properly. I think the matter has been covered in the testimony of the witness to the extent that the broadest possible extent, that it should be covered, could be covered under the law.

MR. SILETS: May I make one statement and then I will hold my tongue, Your Honor? In addition to what I have said so far, I think other counsel have pointed out that the very heart of the issue in addition to its credibility is, is he buying his immunity, his peace, with the government? Either from prosecution as to his activities with Fidel Castro or the 26 count indictment or whatever? If this is true we are entitled to ascertain that fact and show to the jury.

THE COURT: Yes, Mr. Silets, that matter has been argued and I will hear you on that this afternoon. We will take it up at four-thirty.

MR. BRANSTETTER: Of course, well, let's see, we have two matters I believe before the Court at the present time?

THE COURT: Yes. Still reserving the problem of the Grand Jury question.

MR. BRANSTETTER: May I most respectfully state to the Court that it is extremely confusing to counsel trying to cross examine witnesses when we really don't know where we are going. On these reserved matters.

If I might, it is five lines, if I might quote from McCormick on Evidence.

THE COURT: All right.

MR. BRANSTETTER: It says when the Grand Jury has published its action in the matter under investigation the need for secrecy is much diminished and the privilege ceases.

Many cases cited.

The purpose of the former testimony may then be disclosed in any proceeding in which it is relevant as, for example, to discredit a witness by proving his prior inconsistent testimony. To refresh his memory or to prove a criminal charge of perjury.

And there are hundreds of cases cited to this effect. In McCormick on Evidence. This is at Page--, Section 150, Page 313 of McCormick on Evidence.

THE COURT: All right.

MR. BRANSTETTER: Of course, may it please the Court, in the light of that statement and our understanding of the law, I again move that we be permitted to have access to and the Grand Jury minutes with reference to this particular witness be furnished to us for the purposes set out in

McCormick as I just read them.

THE COURT: Overrule that request. All right.

MR. BRANSTETTER: Could I ask him now, am I now foreclosed from pursuing the Grand Jury matter further?

THE COURT: Yes. Until I have had an opportunity to read the cases then I will rule further on the matter. All right, let's have the jury and the witness return.

(Thereupon, the jury of 12 and 4 alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

(Thereupon, the witness, Edward Grady Partin, returned to the witness stand and there followed further cross examination as follows:)

BY MR. BRANSTETTER:

Q Mr. Partin, I hand you here two separate pieces of paper. I ask you to look at them. See if you can identify them. I don't know whether he can or not. I'm asking him.

A I don't know what this is.

Q I will ask you if it would refresh your recollection as to state to you that or ask you if during the--

MR. NEAL: (Interposing) Your Honor, he said he doesn't know what it is. How can his recollection be refreshed?

THE COURT: Overruled.

BY MR. BRANSTETTER:

Q If these questions and answers are questions and answers that you helped staple together and or distribute in Nashville during the trial of U. S. verus Hoffa and Commercial Carriers? Did you see these papers?

A I've never remembered seeing these things at all, sir. Looks like you have got an internal problem in the union from the looks of these.

Q What internal problem?

A Got questions here about member of the union. Local so-and-so.

Q Go ahead.

A How long have you been a member?

Q Yes.

A I'm just glancing at what you have got.

Q Go ahead, what is the internal problem?

THE COURT: We are not--

MR. HOOKER: (Interposing) We object, may it please the Court.

MR. BRANSTETTER: May it please the Court, this witness volunteered this.

THE COURT: Yes, sir, do not read the--, I will not allow you to read the statement in that manner, Mr. Branstetter.

BY MR. BRANSTETTER:

Q Did you during the trial in Nashville relay

information about questions and answers or discussions or interviewing of witnesses to Mr. Sheridan?

A I couldn't have done that sir, because I wasn't there when they interviewed the witnesses.

Q On or about December 4, 1962, did you talk to Mr. Sheridan and tell him that you had been in a meeting where witnesses were being interviewed and you gave him some of the questions and answers that were discussed in this interviewing session of truck drivers by Mr. Buffalino?

A Not that I remember because I have never seen the questions and answers to them.

Q I'm asking you if you told Mr. Sheridan this, that is the question.

A I said I don't remember. I have never seen questions and answers, whatever you call it.

Q Did you ever discuss with Mr. Sheridan a list of questions that were to be propounded to prospective witnesses in that case?

A I don't see how I could, sir. I would have had to make notes if I did. I don't remember anything like that and I didn't make any notes so I certainly couldn't remember answers and questions, and answers and questions, on something I don't remember anything about.

Q Your testimony is that you did not make such statements then?

A Not that I can recall ever making a statement like that, no, sir.

Q Do you know where the Louisiana State Mental Hospital for the Insane is located?

A It is out from Baton Rouge somewhere.

Q Do you know a Dr. McGruder?

A McGruder?

Q A psychiatrist? Louisiana State Mental Hospital?

A I've never been out there so I don't know if he

8A is a doctor out there or not. I have never been on the place.

Q Do you know a Dr. McGruder?

A Not off-hand, no, sir.

Q I will ask you if you didn't go to Dr. McGruder on Wilburn Avenue, Baton Rouge, Louisiana, and that Dr. McGruder is a psychiatrist?

A On what?

Q On Wilburn, (Spelling) W-i-l-b-u-r-n, Avenue.

A I don't believe it is a street named Wilburn Avenue in Baton Rouge. I have been there a long time. I don't ever remember a street like that.

Q Did you at one time request some of the members of your executive board to go by and talk to Dr. McGruder with you, the psychiatrist?

A Not that I can recall. I don't know what I would be doing with one of them. I know some other people needs it

worse than I do.

Q For example?

THE COURT: Well, let's go along, gentlemen.

THE WITNESS: You.

MR. BRANSTETTER: He is the one injecting this, may it please the Court,not me. I'm trying to confine myself to the appropriate procedure.

THE COURT: All right. Strike the remarks of the witness.

BY MR. BRANSTETTER:

Q Have you ever had surgery performed?

A Oh, yes, sir.

Q Was this surgery involving considerable incision around your stomach?

MR. NEAL: Your Honor, we object to this.

MR. BRANSTETTER: I have a reason, I will pursue it, I think appropriately.

THE COURT: Well, let's see. I can't tell, I can't conceive of how it would be material.

MR. BRANSTETTER: Excuse me, I will withdraw it.

BY MR. BRANSTETTER:

Q Did Dr. McGruder tell you specifically that you had a severe mental disorder?

A Sir, I think you are way off base. I don't remember what you are speaking of.

Q Did Dr. McGruder ever prescribe treatment for you for mental disorders?

A Sir, I don't ever remember going to him. I said, so, how could he prescribe something on me I don't know what you are talking about? I don't blame you for wanting to get that in though.

THE COURT: Spell McGruder for the reporter.

MR. BRANSTETTER: (Spelling) M-c-G-r-u-d-e-r, is the way I have it. On Wilburn Avenue.

BY MR. BRANSTETTER:

Q Have you ever used dope or narcotics?

A Not that I know of, sir, unless the doctor gave it to me.

Q Well, would you know it if you did?

A I imagine I would. Just expect I would.

Q Did you ever give a statement to the sheriff in Mississippi that you had been on narcotics and that explained your conduct?

A Certainly don't remember it, sir.

Q Well, now, to refresh your recollection, you have been previously asked--

MR. NEAL: Your Honor, could we establish the date of this alleged thing?

MR. BRANSTETTER: May it please the Court, counsel has no right to object to a date on this particular declaration.

MR. NEAL: Yes, we do. We have a right to the date that he is talking about some statement. We have a right to identification of the statement when the statement was made, to whom it was made. Your Honor, we have that right.

MR. BRANSTETTER: Will counsel agree that we can introduce the statement, certainly we will do the whole thing?

THE COURT: Well, proceed.

BY MR. BRANSTETTER:

Q Did you answer whether you recall it?

A I believe I answered you, sir.

Q How did you answer?

A I answered you just like you didn't want me to.

Q I'm not sure of that.

MR. SCHIFFER: I object to that, Your Honor. He is doing the same thing all over again today.

THE WITNESS: I answered the same question two or three times.

THE COURT: Let's respond directly to the question.

BY MR. BRANSTETTER:

Q Did you tell your wife--, you are still married?

A I believe so. Unless the law have run out after three years.

Q Well--

A (Interposing) Unless there is something along that. I didn't get a divorce.

Q But you answer the question specifically, you have never actually had a judicial determination that marriage ties between you and Mrs. Partin have been totally severed?

A I'm not up with them. Not that I know of, no, sir.

Q So you are still married?

A I take it for granted I am. I mean after three years you begin to wonder but I take it for granted I am.

Q Do you mean you begin to wander around?

THE COURT: Well--

THE WITNESS: (Interposing) Well, probably that, too.

MR. NEAL: Now, Your Honor--

THE COURT: (Interposing) Just a minute.

MR. BRANSTETTER: He said he did.

THE COURT: Well--

MR. BRANSTETTER: (Interposing) Did you tell your wife--

MR. NEAL: (Interposing) We object to this thing, Your Honor, he told his wife, how can that be proper cross examination?

THE COURT: Sustain the objection.

MR. NEAL: This man here gave direct testimony--

MR. SCHIFFER: On behalf of Defendant Parks, Your Honor, we move the Court to permit the witness to answer this question because this isn't a question against a wife testifying against a husband, where the husband is the defendant. We are here attacking a witness' credibility and if he in fact had subh a conversation with his wife this is legally competent to testify against him.

MR. BRANSTETTER: Do I--,

THE COURT: (Interposing) Ask your question. I will rule on it.

BY MR. BRANSTETTER:

Q Did you tell your wife that you were storing narcotics in the place that you were renting at No. 7 Oak Avenue, Baton Rouge, Louisiana?

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A Storing what?

Tk 9 fol.

Q Narcotics?

A I don't understand.

Q Did you understand that?

A I don't know, you know more about it than I do, sir.

Q I asked you, did you tell your wife that? You can say yes or no.

A I don't recall telling my wife. I may have told her a lot of things when I was arguing but I don't remember any conversation like that, sir.

MR. NEAL: Now, your Honor --

A (Interposing) Probably like you did your wife.

MR. NEAL: We object.

THE COURT: Sustain the objection. Strike the question and answer.

MR. NEAL: And counsel should be admonished that he knows better.

MR. BRANSTETTER: May it please the Court, if the Court wants us to produce the witness, if she wants to exercise her privilege --

THE COURT: (Interposing) Now, Mr. Branstetter, I sustained the objection.

MR. BRANSTETTER: Well, then --

THE COURT: (Interposing) Proceed with the question.

BY MR. BRANSTETTER:

Q Did you have a safe at Local No. 5?

A No, sir.

Q A safe for the storage of papers?

A I didn't.

Q Did Local No. 5 have a safe?

A Yes.

Q Where is that safe?

A You can tell me more about that than I can.

MR. SCHIFFER: Objected to, your Honor, again he's arguing, not responsive.

A I don't know, your Honor, he has got a rebel across the room sending him notes.

THE COURT: Just --

Q (Interposing) No, I have had these notes for some time, Mr. Partin. Was the safe where you kept your notes, did you keep notes in the safe about this particular matter?

A Notes in a safe?

Q Yes.

A I didn't say I had notes.

Q Telephone numbers?

A I said I never did have notes, you said that, sir.

Q You said you had telephone numbers?

A Yes.

Q In a book.

A I didn't say I had notes in the safe, sir.

Q Well, you said you had telephone numbers in a book. Now, did you keep those in the safe?

A I didn't say I had them in a book, I said I had some in the book, some on paper, some anywhere.

Q Well, wherever you had them, whatever you had them on, did you keep those in the safe?

A I don't imagine I did, sir.

Q Well, you don't imagine? Do you know?

A I don't know of any reason they would need to be in the safe.

Q When was the safe taken from the Local's office?

A I don't know, you can tell. If I could remember about when, you tell me if it's about that time I will tell you.

MR. NEAL: Your Honor, what possible connection can this have?

MR. BRANSTETTER: May it please the Court, this witness has --

MR. NEAL: (Interposing) I object. May I make the objection?

THE COURT: Proceed. I think we will save time if we proceed. I can't see the relevancy of it either but proceed.

MR. HAGGERTY: I object, may it please the Court,

to your Honor's comment.

THE COURT: All right. Disregard that remark of the Court, ladies and gentlemen.

BY MR. BRANSTETTER:

Q Did you ever shoot yourself with a pistol?

A Oh, they was a time when I was shot down there.

Q Did you shoot yourself with a pistol?

THE WITNESS: Your Honor, that is a case that has been investigated. I don't think I should have to answer because it's a case that is still pending on whether I was shot or somebody shot me. If I answered here it would be depriving me of my rights.

MR. SCHIFFER: May we have an answer?

MR. NEAL: Just a moment. Let him talk.

A I will be happy to tell the jury everything connected with it.

MR. NEAL: Your Honor, what I objected to is this, your Honor --

THE COURT: (Interposing) Sustain the objection.

MR. BRANSTETTER: May I inquire of the Court what is objected to, whether he shot himself or he can't answer?

THE COURT: Sustain the objection to the question.

BY MR. BRANSTETTER:

Q Mr. Partin, I will hand you up for the purpose of identification a couple of photographs.

A You have to tell me what way to turn it.

Q Does that look like O'Brien's Beefery that you testified about, the steps in front and the steps up to it?

A This is the front, yes, sir.

Q And that's the front. Then can you identify the other picture there as the steps that go up and the telephone on the left there?

A I don't know if that's the steps that go up or not. All I know is about the place inside where you eat because you have several ways you can go in, one goes to a lounge, one goes to the restaurant, so I can't identify this, but this looks like the front of that.

Q Was the telephone -- there is a picture of a telephone on what you are looking at.

A Yes, there is a picture of a telephone.

Q It appears to be a public pay phone, does it?

A It appears to be, yes.

Q Did you ever see that one in O'Brien's Beefery?

A No, sir, I haven't. I don't remember it if I did, I certainly don't.

Q Can you identify those pictures, though, as the entrance and steps to O'Brien's Beefery that has been discussed previously? If you can --

A (Interposing) This looks like it but I can't identify this, that could have been anywhere, I don't know

what that is but this is --

MR. BRANSTETTER: (Interposing) Will you mark those for identification purposes and I would like to introduce them in evidence.

MR. NEAL: Well, your Honor, there has been no foundation laid for either one of them here, the one the witness said he could identify we have no objection to but the one he said he doesn't know what it is, of course, we object to that.

MR. BRANSTETTER: Could I mark one for identification and then may we have the other one in evidence and passed to the jury?

THE COURT: All right. Exhibit number?

MR. SAULPAW: 130, 131.

THE COURT: For the purpose of the record so that we may be straight, have the exhibits shown to the witness. First show him Exhibit No. 130. Is that or not the picture which you can identify?

THE WITNESS: Yes, sir, this one looks familiar, that one doesn't.

THE COURT: All right. Allow that picture to be introduced. Exhibit No. 131 then will be introduced for identification purposes only, is that correct, sir?

MR. BRANSTETTER: Yes, just for identification purposes only at this point.

MR. SAULPAW: Yes.

(The photograph referred to above was marked Defendant Campbell Exhibit No. 130 for identification and received in evidence and the other picture was marked Defendant Campbell's Exhibit No. 131 for identification only.)

MR. BRANSTETTER: May I have another picture marked for identification? If you will, mark it.

MR. SAULPAW: 132.

(The photograph referred to above was marked Defendant Campbell Exhibit No. 132 for identification only.)

MR. BRANSTETTER: I am sorry. Would you hand it to counsel first? It has been marked. Could we have another one marked for identification also?

MR. SAULPAW: No. 133.

(The photograph referred to above was marked Defendant Campbell Exhibit No. 133 for identification only.)

BY MR. BRANSTETTER:

Q Does this represent the Union Station in Nashville, Tennessee?

A It represents one that looks like you tried to touch up to make it look like that it was wrong, the entrance is all it represents to me, I can't --

Q (Interposing) Now, go ahead, go ahead.

A From looking at that, that don't look like the entrance that you would be trying to show me.

Q What entrance would I be trying to show you?

A Looks like you are trying to disguise something to me, I don't know.

Q Well, disguise what do you mean, go ahead and explain.

A I don't know.

Q Explain how it is disguised.

A The building looks familiar but I don't know why in the world you would have a picture from that entrance, if that's what it is.

Q This is a picture of the Union Station in Nashville, Tennessee, is that correct?

A I don't know, sir.

Q Well, you just said it looked like it.

A I said the building looks familiar but the way you got it moved around there trying to do with it I don't know what it is.

MR. NEAL: I think counsel should indicate if he can which side of the picture.

MR. BRANSTETTER: Now, may it please the Court --

THE COURT: (Interposing) Overrule the objection.

MR. BRANSTETTER: If he wants to object to the picture.

THE COURT: Proceed.

MR. BRANSTETTER: All right. Go ahead. Would you show the witness the other one and we will get them both going

at once.

BY MR. BRANSTETTER:

Q If that is a fair representation say so, if it isn't, say so.

A That doesn't look like the part of it I was in, sir.

Q Have you ever seen this part of the Union Station?

A What?

Q Have you seen the part of the Union Station in Nashville, Tennessee, that this purports to represent?

A I may have seen it but I don't --

Q (Interposing) All right.

A But I don't believe so, just looking at it I don't believe I walked under all that stuff when I was going in there, I may have, I can't --

Q (Interposing) You do identify the first one, let's see, 132?

A No, sir, I said to me it looks like the building, looks similar, as far as the height and stuff, I can't, I can't identify it.

Q Does it appear to be a phone booth there?

A Oh, yes, sir.

MR. NEAL: Your Honor, we object.

A That's what you was pointing out.

MR. NEAL: We object to that. We will show what

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pictures these are.

MR. BRANSTETTER: May it please the Court, he can show when it comes his turn.

THE COURT: Sustain the objection.

MR. NEAL: It is not in evidence.

MR. BRANSTETTER: All right, I would like to introduce these in evidence.

MR. NEAL: We object to them not as having the proper foundation laid.

THE COURT: I think they can be introduced for identification purposes.

MR. NEAL: Yes, there is no objection to being introduced for identification purposes but not in evidence.

(The photograph referred to above were marked Exhibit No. 132 for identification only.)

THE WITNESS: Same one I just had.

BY MR. BRANSTETTER:

Q That is the same one you had, that is No. 132 and I am asking you if that then is the building known as Union Station in Nashville, Tennessee?

A I can't swear to that, not the way this is taken.

Q You can't swear to it?

A I didn't understand you, sir.

THE COURT: Gentlemen, let's do not have attorneys making comments or stating questions in the courtroom other than the attorney that is questioning the witness.

BY MR. BRANSTETTER:

Q On the first day of your testimony, Mr. Partin, I believe you stated at one point that it was Mr. Hoffa's life or your life. Is that correct?

A No, sir, not without the qualification for it. We went over that yesterday.

MR. NEAL: We object as being repetitious and certainly did go over it yesterday.

THE COURT: Sustained.

MR. BRANSTETTER: Could I inquire of the Court, the basis, form of the question or content?

THE COURT: Matters upon which there have been at least two cross examinations.

MR. BRANSTETTER: May it please the court, before I proceed further I will read a ruling of the Court on a matter dealing with the Grand Jury testimony.

THE COURT: All right. Well, ladies and gentlemen, let's take a ten minute recess at this time. The jury and the witness will observe the usual instructions.

(Thereupon, at 10:35 a. m., court was in recess.)

(Thereupon, after recess, the jury of 12 and 4 alternates, and the witness Partin, returned to the court-room and in their presence the following proceedings were had, to-wit:)

THE COURT: Mr. Branstetter, the Court will

overrule the objection of the government to the question upon which it had previously reserved a ruling relating to Grand Jury.

BY MR. BRANSTETTER:

Q Mr. Partin, when you appeared before the Grand Jury, and exercised your privilege or read this statement, were you then telling the truth?

A What do you mean telling the truth?

Q I mean this, did you then believe that any testimony you gave would tend to incriminate you?

A No, sir, I was following the advice--

Q (Interposing) Just a moment.

A Will you let me answer the question?

MR. NEAL: He said no, sir. He is entitled to answer the question. To explain the question.

MR. BRANSTETTER: May it please the Court, I don't want counsel interjecting because this is the very point we are getting at.

THE COURT: I will allow him to complete his answer.

THE WITNESS: I was just following the instructions I was given by Mr. Buffalino, sir. It was understood by him that there was nothing wrong with doing that, that that is what they wanted. That is what they suggested and certainly I wasn't going to say no, sir, or something like that would

make him--

BY MR. BRANSTETTER:

Q (Interposing) So the record is clear, you at that time knew that you were not telling the truth.

A You said that, I didn't.

Q Well, didn't you say it?

A I didn't know the Fifth Amendment was not telling the truth.

Q When you exercised your right and refused to give testimony did you then know or then believe that if you did so if you gave testimony would tend to incriminate you?

MR. NEAL: Now, Your Honor, we object. It has been asked and answered.

THE COURT: Overruled.

THE WITNESS: Will you restate the question?

BY MR. BRANSTETTER:

Q Did you when you exercised the Fifth Amendment before the Grand Jury in Nashville did you at that time believe that any testimony you gave or would give before the Grand Jury would incriminate you?

A Sir, I don't know whether I would have or not because seeing how the things have gone, I would have to qualify the answer to tell you.

Q Would the questions that were asked you call for your admitting that you had engaged in criminal conduct?

A I don't think so because I didn't even tell them my name.

Q You don't think that it would have?

A I said on some of the questions because I didn't even tell them my name. I didn't start. I didn't get into it. Didn't ask me enough questions to know because I was specifically ordered. I believe the attorney told me to give them my name. I didn't even give them my name to start with. As far as whether I was an American citizen or not.

Q You then knew at that time that the questions that would call for the answers would not incriminate you?

A I stated my name.

MR. NEAL: We object to that. It has been asked and answered.

THE WITNESS: That is not the question, sir, that is a statement.

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BY MR. BRANSTETTER:

Q I just want an answer is all, Mr. Partin. Did you believe that the answers that you might give to the grand jury would incriminate you?

A I hadn't did anything wrong, I don't know whether I thought that or not, I merely was following the instructions, I never gave it much thought.

Q You had not did anything wrong, that is your answer?

A Not that I knew of, I mean if I--I may have, I didn't know I did if I did.

Q So any testimony you would have given then would not have tended to incriminate you?

A You made a statement.

Q I am asking.

A Well, you made a statement.

Q Well, would it or would it not?

MR. NEAL: Your Honor, hasn't he answered this question? Can't we move on to something else?

MR. BRANSTETTER: Not that I--

THE COURT: (Interposing) Overrule the objection.

A I was just told by Buffalino what to do, sir, and I followed his instructions.

Q Were you told by Mr. Sheridan what to do?

A No, sir.

Q Ever?

A No, sir, not as far as telling me what to do, no, sir, as far as saying, "You do this."

Q The only reason then--let me ask you this--the only reason that you took the Fifth Amendment before the grand jury is because now you say Mr. Buffalino told you to, that's the only reason?

A You made a statement, if you will let--

Q (Interposing) Well, I am asking you.

A Okay. I don't know that would be the only reason or not, but evidently when I told Mister--

Q (Interposing) Give me the other reason.

A You won't let me answer you.

THE COURT: Let him answer the question.

A You are getting excited. I don't know if that would have been the only reason or not, that seemed to be enough when I told Mr. Sheridan to go ahead and followed his instructions, I guess, I am just guessing.

Q When you told Mr. Sheridan?

A I told Mr. Sheridan, evidently that he had told me to take the Fifth Amendment, sir, and I said either that was enough or it wasn't pursued any further, I went in with the attorney from Nashville, whatever his name was, he advised me to follow the instructions I had there. I was told by Mr. Buffalino when I got to Nashville to contact

some gentleman, I forget what his name was. I called him, he came up in the courtroom, he sat out in the courtroom when they asked me some questions.

I asked him did I have to answer them. He said, "No." So that was the advice of him.

Q Now, when did you tell Mr. Sheridan it seemed to be enough for Mr. Sheridan?

A I said if I told him either what Mr. Buffalino said or Mr. Sheridan was enough to go ahead and do as he said do, I don't know who advised me to go except Mr. Buffalino.

Q Who said Mr. Buffalino?

A You have been preaching it, one of you six or seven people have been preaching the last two or three days.

MR. BRANSTETTER: May it please the Court, I think we should have reasonably responsive answers.

THE COURT: All right. State a question.

BY MR. BRANSTETTER:

Q Who told you that the statement was sufficient?

A Sir, I didn't say anyone told me the statement was sufficient, if you will allow me to qualify what I said or do you want to leave it like it is?

Q I want to find out what the truth is with reference to your meeting with Mr. Sheridan and his approval of your taking the Fifth Amendment, if that is the case.

A I didn't say I met with Mr. Sheridan, he approved it, I said one of the different batteries over here that questioned me.

Q Well, answer me.

A Said--I got to qualify it, sir, I can't answer it like you want me to.

THE COURT: Allow him to answer.

Q I don't know whether you can or not.

THE COURT: Just allow him to answer.

A Because I was asked her several times, I guess you might have put that thought in my head then where you said, "Don't you know Mr. Buffalino was an International attorney, he practiced law and this and that," so I don't remember which one of you told me.

Q Go ahead.

A It could have been in my mind then or it could have been in my mind later, I just followed the instructions on the thing.

Q Are you through?

A Yes, sir.

Q Now, what could have been in your mind then?

MR. NEAL: Your Honor, this is arguing with the witness.

MR. BRANSTETTER: It's not, I am asking him. He said--

MR. NEAL: (Interposing) We object to that.

THE COURT: Overruled.

A I don't know exactly what was in my mind then, I didn't think I was going to be indicted for anything in front of the grand jury because certainly I thought that I had to appear in front of the grand jury, so I wouldn't remember every little detail until I got there except that I had a piece of paper to read off when I got there.

Q And you were placed under oath, I believe you stated, you went in the grand jury room?

A I imagine I was.

Q And the questions that were asked you that you did not answer, would you state the questions, please?

MR. NEAL: Your Honor--

Q (Interposing) First, what question was asked you that you exercised your privilege on?

MR. NEAL: Your Honor, we have gone over that. We object to it.

THE COURT: Overruled.

A If you will show me something to go by what was asked me I can answer you.

MR. BRANSTETTER: Well, may it please the Court, could we ask to have the grand jury minutes to ask him what was asked him?

THE COURT: No, sir, you cannot and that has been

ruled upon by the Court several times for very good reasons, which you were well aware of before you ever asked that question. Proceed.

MR. BRANSTETTER: The witness was asking for the refreshing of his recollection, may it please the Court.

A You can refresh it any way you want to.

THE COURT: Proceed.

BY MR. BRANSTETTER:

Q All right. Did you--you said Mr. Shaffer was there and Mr. Durkin?

A No, sir, you said that, I said that names sounded like the ones that was there.

Q All right. You know Mr. Shaffer?

A I know him when I see him.

Q All right. You have talked to Mr. Shaffer on many occasions or on some occasions?

A You making a statement or what?

Q Have you talked to Mr. Shaffer ever?

A That's better, sir. I think I have spoken to him a time or two.

MR. SCHIFFER: Your Honor, I object to the attitude of this witness and I ask the Court to admonish him again to be responsive to the question.

THE COURT: Yes. Do not ask questions.

THE WITNESS: He makes a statement and wants me

to answer.

BY MR. BRANSTETTER:

Q We will do that differently. When was the first time you met Mr. Shaffer?

A The first time I saw him or met him, sir?

Q You state both, if you will, please.

A I saw him in the courtroom up there.

Q You saw Mr. Shaffer in the courtroom daily while you were in the trial in Nashville, is that correct?

A I didn't say I saw him daily, sir, I said I saw him.

Q Did Mr. Shaffer participate in the trial of the case that you observed from October the 22nd off and on through December?

A The man that identified hisself as Mr. Shaffer was in the papers Mr. Shaffer and so forth, yes.

Q And you saw him participating in that trial?

A Yes, sir.

Q And you knew he was a government attorney?

A That's what he was to--

Q (Interposing) When after the trial was the first time you saw Mr. Shaffer?

A Sir, I have had such a little contact with Mr. Shaffer I couldn't tell you, very, very little contact with Mr. Shaffer.

Q How many attorneys were in the grand jury room?

MR. NEAL: Your Honor, he has gone over this.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q Was Mr. Shaffer there?

MR. NEAL: He has gone over that, your Honor, he said he thought so.

MR. BRANSTETTER: I can't ask him the question, may it please the Court, unless I know who advised him.

A I think he was, sir.

Q All right. Was he the one that asked you these questions that you exercised your privilege on?

A I believe he was the primary one, if I am not mistaken. The grand jury foreman was either introduced or something, I don't remember exactly how it went, I believe.

Q Had you ever talked to Mr. Shaffer about the information that you had obtained as you were spying on the activities of the headquarters?

A I don't know whether you call it spying or not.

Q Well, the information.

A Call it what you want. I don't think so, I don't believe so.

Q You had only talked to Mr. Sheridan about that?

A Mr. Shaffer may have answered the phone but I wouldn't know it was him answering the phone or not when I tried to call Mr. Sheridan.

End Tk 11
Tk 12 fls.

Q Do you know whether or not Mr. Shaffer then knew-- let me ask you this, you signed an affidavit on December 19th, with reference to certain statements as of November 7th, that Mr. Hoffa made, do you recall that? It was handed you yesterday.

A I remember the statement. I would have to look at the dates.

Q Do you know--, were you present in the courtroom at any time or have knowledge that the hearings were being had and that this was to be introduced in evidence on the hearings?

A I didn't question what they were going to do with it. I taken it for granted it was going to the Judge or what--

Q Go to what? I'm sorry.

A Go to Judge or someone with authority.

Q And knew that the Judge there in the case that was being tried that Mr. Shaffer was participating in it, wasn't he? You observed him?

A I guess he was in the courtroom. He was supposed to have been.

Q Did Mr. Shaffer ask you about phone calls in front of the Grand Jury?

A He asked me something it seems about a phone call and asked me whether I was an American citizen. I can't

remember all the questions.

Q On the phone calls, what was your answer?

A I told you what my answer was all the time, sir.

Q And what was that answer?

MR. NEAL: Your Honor, he has been over this.

THE COURT: Yes, state what it was.

BY MR. BRANSTETTER:

Q Did you exercise your privilege on the answer to the phone calls all right at the time you did that you were under oath, right?

A I imagine I was.

Q At the time you did that did you honestly believe or think that if you gave him the answer requested that it would incriminate you?

MR. NEAL: Your Honor, he has answered that at least twice this morning.

MR. BRANSTETTER: May it please the Court, counsel each time has got up and told him how to answer this question and I object to his incessant interposition in the matter.

MR. NEAL: Your Honor, I have to object when it becomes repetitious.

THE COURT: I will allow him to answer once more.

THE WITNESS: I don't remember what the phone call was he asked me about if it was a phone call asked about to tell you the truth about it.

BY MR. BRANSTETTER:

Q Well, you just said he asked you about a phone call.

A I said I think something was mentioned about some citizenship and so forth.

Q Let's stop at the phone call first. When he asked you about the phone call and you refused to answer on the basis that it might incriminate you, did you then state under oath that you thought it would incriminate you to answer that question?

A I said I don't remember what the phone call was. So I just went down the line on the Fifth Amendment, sir, whatever question was asked.

Q Did you then know of any phone calls that they were inquiring about that would constitute criminal conduct on your part?

A No, sir, I wasn't the judge of that.

Q Now, when you--, now, where were you when you were advised by Mr. Buffalino to take the Fifth Amendment that you speak of?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Did you meet with Mr. Buffalino in New Orleans on the 7th of January?

A Sir, I don't know exactly when I met but there

were other people probably could give you better dates better than me.

Q Did you meet with him from the 7th to the 10th of January in New Orleans I believe at the Roosevelt Hotel?

A I met with him, sir, but I don't remember the exact date.

Q Was it in January?

A It could have been.

Q 1963, was it before you received the subpoena to appear before the Grand Jury?

A Sir, I don't know. You would have to show me the dates.

Q We showed you the subpoena before the Grand Jury and I would like to have that introduced in evidence, may it please the Court, as a copy of the subpoena that was issued to this witness to appear before the Grand Jury.

THE COURT: It was introduced for identification purposes.

MR. BRANSTETTER: I would now like to introduce it in evidence.

THE COURT: Well, any objection? Is there any foundation laid for admitting it in evidence now?

MR. NEAL: It is irrelevant.

THE COURT: Any objection to it being introduced in evidence?

MR. HOOKER: I don't see any, if Your Honor please

THE COURT: All right, allow it to be in evidence.

(The Grand Jury Subpoena previously marked Exhibit No. 129 for identification was received in evidence.)

BY MR. BRANSTETTER:

Q Would you pass it up to the witness and ask him what day or what month he appeared? If it was not the 5th of February, 1963.

A That is the date it was issued, sir.

Q When did you appear? When does it say?

A It shows on here the 8th day of February.

Q So you appeared before the Grand Jury on the 8th day of February, 1963?

A According to this.

Q And you appeared only the one time?

A Yes, sir.

Q Now, you stated with reference to the exhibit showing a picture of O'Brien's Beefery that you walked with others back toward Union Station on one evening, do you recall the date that you testified about on that?

A No, sir, I don't.

Q Do you recall whether it was in the month of October or in the month of November? That this incident you testified about occurred?

A No, sir. I don't. I would have to be shown the

things I could base my judgment upon.

Q Do you remember whether it was October, November or December?

A I answered you. I said if you put the stuff down there, show me I can pretty well place it close as I can.

Q You can simply say if you don't remember it, Mr. Witness, I will be very happy to accept that answer. Do you remember now independent recollection whether it was October, November, or December?

A If you want me to guess--

Q (Interposing) I don't want you to guess. I want to know if you have an independent recollection of it at this point.

A No, sir.

Q O. K. All right, when you, whatever date it may have been, did you see a Mr. O'Brien, not the O'Brien of the O'Brien's Beefery in Union Station?

A I don't remember exactly whether he went in there or not. Seems that he was in the crowd. I'm not positive of him.

Q Will you describe O'Brien for us from the standpoint of physical statue?

A Yes, sir, he would be about this gentleman's size the second from the end over here.

Q Now, which O'Brien?

A About--

Q (Interposing) You are talking about, could I inquire, is this the O'Brien that was the detective at the Union Station that you are describing or some other O'Brien?

A I'm talking about the one you asked me about. Chuck O'Brien, I guess.

Q Well, I didn't ask you about Chuck O'Brien.

A Well, you--

Q (Interposing) Did you see a Mr. O'Brien who was a detective who has previously testified here?

A I don't know O'Brien the detective, no, sir.

Q Now, when you went in you stated that someone made a phone call in Union Station.

A Sure did.

Q And that you went over to the phone booth with the fellow that made the phone call.

A Open phone. I call it an open phone.

Q All right, open phone?

A Yes, sir.

Q And you stood there while this phone call was being made, how far were you from the person making the call?

A I would guess about bump shoulders with him.

Q Just about to bump shoulders and you stood in that position observing the phone call being made and over-hearing the conversation that was had on the phone and then

you left with the person that made the phone call?

A No, sir, I didn't say that.

Q Well, did you leave with the person making the phone call?

A He was in the crowd.

Q Well, you left with the crowd?

A Yes.

Q Now, you state that you did not know a Mr. O'Brien who is a detective at the railroad station.

A No, sir, I don't know him just by name. I probably know him if I saw him. If he was in there.

12A

Q You knew all the people that was in the group you were with at that time?

A Well, I knew the ones that I could call off-hand. Sometimes would be several people there that I wouldn't be paying any attention to.

Q Now, I asked you previously if you did not make a statement to a Mr.Morris, Sheriff in Woodville, Mississippi.

A Sir, I stated that is so long ago I wouldn't remember it if I did.

Q Just a moment, I'm asking you now, Mr. Witness.

A Sir, you won't let me answer. I beg your pardon.

Q I can't understand your starting to talk.

THE COURT: Just state your question. Wait until he asks the question.

BY MR. BRANSTETTER:

Q I will ask you this--

MR. BRANSTETTER: I ask the Court to instruct the witness to wait until I ask the question.

THE COURT: Yes, sir, wait until he asks the question.

BY MR. BRANSTETTER:

Q I will ask you if you did not state to a Sheriff Morris in Woodville, Mississippi--

MR. NEAL: We object, Your Honor. It has been over. Repetitive. Improper cross examination.

THE COURT: Just a moment. State your question.

MR. BRANSTETTER: May it please the Court, I think the Court should instruct counsel for the government not to interpose when we start a question until the question is complete.

BY MR. BRANSTETTER:

Q All right. Did you state to a Mr. Morris, sheriff, in Woodville, Mississippi, on or about March 4, 1941, when he was inquiring about the rate of charge--

THE COURT: Now, Mr. Branstetter, it is apparent to the Court that you are attempting to go into matters that the Court has ruled upon heretofore. Will you submit to the Court the statement you are referring to?

MR. BRANSTETTER: The underlined part.

MR. NEAL: I point out, Your Honor, that this is not only going into matters that you have ruled upon before, also repetitious. Last Wednesday that Mr. Berke--

MR. BRANSTETTER: (Interposing) May it please the Court, counsel objected while ago when I brought this up and merely asks for me to state the date on which this occurred. I obtained the statement and now have the date on which it occurred. And in accordance with counsel's request--

THE COURT: (Interposing) Just a moment. Sustain the objection.

End 12

Tk 13 fol.

MR. BRANSTETTER: May it please the Court, I am not seeking to obviate the ruling of the Court. I asked this witness once before if he -- if he had several years ago or if he had recently been taking dope.

THE COURT: All right. I allowed you to ask him that.

MR. BRANSTETTER: All right.

THE COURT: I allowed you to ask that and he answered it.

MR. BRANSTETTER: Yes. Now, I want to inquire, and I don't want to do it improperly if he told anyone that he was.

MR. NEAL: May he answer the question? May he answer the question?

MR. BRANSTETTER: All right.

MR. NEAL: No, the question you just posed here?

THE COURT: All right, ask him that. That wasn't the question you asked.

BY MR. BRANSTETTER:

Q All right, did you tell --

MR. NEAL: (Interposing) No, your Honor, your Honor has sustained the objection to this.

MR. BRANSTETTER: Well, I thought that's what he wanted me to ask.

MR. HOOKER: He has already answered, I submit

that he wasn't taking dope, narcotics of any kind, that ends the matter.

THE COURT: I am going to sustain the objection. Let's proceed.

MR. HAGGERTY: May it please the Court, inasmuch as it has injected this question of narcotics I move the Court at this time that the Court appoint a psychiatrist, a doctor of medicine under the direction of the Court, to examine the witness to ascertain whether or not it is true or false.

THE COURT: Overrule the request and disregard the statement of counsel, ladies and gentlemen of the jury.

MR. BRANSTETTER: May I understand appropriately from the Court whether my question deals with substance, representation or lack of relevancy?

THE COURT: Well, I sustained the objection to the question and let's proceed.

MR. BRANSTETTER: With all sincerity, may it please the Court, I have a difficult time in approaching the matter unless I know upon what basis because I don't know whether I am disobeying the instruction of the Court if I proceed in a different manner on the same subject matter.

BY MR. BRANSTETTER:

Q Do you hold any office in the Teamsters Union other than what you have testified about?

A Not that I know of, sir.

Q How many times did you see Mr. Ewing King eating with this group at O'Brien's Beefery that you were with?

A Several, I don't recall, he may have been there once, he wasn't there very frequently, may have been there twice, I don't recall too much of him being there, he was probably there because usually most of them came in and out.

Q You think maybe you recall one time?

A I just am guessing on it, I don't know.

Q Do you recall any conversation that King may have had with reference to Mrs. Paschal on this occasion?

A Not at O'Brien's Beefery, no, sir, I don't.

Q Do you know Sheila Fay Crabtree?

A Yes, sir.

Q Did you call her from Nashville while you were there during the months of October, November, and December?

A Probably did, she used to keep my children for me, she was a babysitter for my children.

Q Where?

A The whole family.

Q Where does she live?

A Where does she live where?

Q Where does Sheila Fay Crabtree live? If she kept your children where is she?

A I don't know where she lives now, the children are

not there any more.

Q How long has it been since the children are not there any more?

A Oh, two or three years.

Q Two or three years?

A Three or four years. I am not sure.

MR. HOOKER: We object to this, your Honor, if your Honor please, as being utterly immaterial.

MR. BRANSTETTER: May it please the Court, may I inquire of this witness' memory on something at this time and also to see if this person may or may not have been in Nashville who she may have talked to?

THE COURT: Well, proceed.

MR. BRANSTETTER: And he answered that she kept his children. I am asking about October, 1962, and he says that she hasn't done so for three or four years. I don't know how we can proceed if that is the type of --

THE COURT: (Interposing) Proceed.

MR. BRANSTETTER: All right.

BY MR. BRANSTETTER:

Q When did she keep your children?

A Well, the whole family kept them, sir, kept them for a period of several months and then when I had her on the weekend her mother and father and her kept them on the weekends for me.

Q Did you live there with her?

A Oh, yes -- not with her, sir, I lived with the family.

Q In where?

A Baton Rouge.

Q In Baton Rouge?

A Uh-hmm.

Q Now, where is she now?

A I can't swear to where she is at now.

Q Well, where did you last make telephone calls to her?

A Either Hattiesburg or Pascagoula, wherever her mother and father was.

Q How long has it been since they moved back to Mississippi?

MR. HOOKER: If your Honor please, isn't this going quite far afield here about babysitters?

THE COURT: The Court is unable to see any relevancy.

BY MR. BRANSTETTER:

Q Well, did she ever come to Nashville while you were there?

A Oh, no, sir.

Q October, November, and December?

A No, sir.

Q All right. Did you make calls to her from Nash-

ville?

A I may have.

Q During October, November, or December?

A I may have called her family or her daddy or mother or brothers, they are all very close friends of mine, the whole family.

Q Do you recall what you talked to her about then if you called her brother or her uncle?

MR. HOOKER: How far, if your Honor please? We object.

MR. BRANSTETTER: He volunteered.

MR. HOOKER: Clear out of the realm of any reasonable cross examination in this case.

THE COURT: Proceed.

MR. NEAL: Your Honor, I wonder, if it's not --

MR. BRANSTETTER: (Interposing) Excuse me, could we pass the Grand Jury subpoena to the jury?

MR. NEAL: Your Honor, may I object to counsel, Mr. Haggerty, counsel for Mr. Hoffa, all the counsel coming up and giving questions to this attorney. They have had their chance to cross examine. This has been going on five days now, your Honor.

MR. HAGGERTY: Well, this is --

MR. NEAL: (Interposing) I object, Mr. Haggerty. May I finish my objection, please? I object to this continual

passing of questions after they have examined. The Court, after listening this length of time, your Honor, the Court has some discretion in the limiting of cross examination. We respectfully request that the Court exercise that discretion now to move this matter along.

THE COURT: The Court is attempting to move the matter along and I am doing that right now. Let's proceed.

MR. HAGGERTY: I would like to reply to Mr. Neal. This is the most ridiculous of all the ridiculous statements he has made.

THE COURT: Gentlemen.

MR. HAGGERTY: I feel I have a perfect right, they are not only my notes, they are the notes of other counsel. I think I have a perfect right.

THE COURT: The Court hasn't sustained his objection, Mr. Haggerty, the Court has not sustained his objection in that respect and I am asking you to proceed.

MR. SILETS: May his comments be stricken, your Honor, and the jury told to disregard them?

THE COURT: All right. Strike his comments and disregard his comments. Proceed, gentlemen.

MR. BRANSTETTER: That is the Grand Jury's subpoena.

BY MR. BRANSTETTER:

Q Do you know Larry Campbell?

A Who?
Q Larry Campbell.
A No, sir, I don't know him.
Q Could you identify Larry Campbell?
A I doubt it, sir, because I doubt if I could identify him unless I have seen his picture in the paper or something I wouldn't be able to identify Larry Campbell, no.
Q Do you know whether or not he is in the courtroom?
A I assume he is, I can't swear to it, he is being tried, I guess he is here.
Q Do you know why now that you took the assignment to go to Nashville during the Hoffa trial in Nashville?
MR. NEAL: Your Honor, this has been gone into.
THE COURT: Sustain the objection.
MR. BRANSTETTER: To the form of the question or because it's repetition?
THE COURT: I have sustained the objection.
BY MR. BRANSTETTER:
Q Did you talk to government counsel, Mr. Sheridan, or anyone connected with the government, this past evening?
A Well, the marshals, I talked to them, and I think Mr. Sheridan spoke to me.
Q Where did Mr. Sheridan speak with you?
A Right out here, please, sir, right out here where you go.

Q How long were you here after court adjourned on yesterday?

A I would say 20 or 30 minutes, something like that.

Q Where were you during that period of time?

A Sitting where you put me every time in the witness place there.

Q In the witness place. Who was in there with you?

A I don't know who all the people was coming in and out.

End 13
13a fls

Partin - Cross

Q Well, name some of them that were there.

A I couldn't name them, sir, I am not familiar with all of the people.

Q Mr. Sheridan was there?

A He came in and spoke was all.

Q Was Mr. Grimsley there?

A Who?

Q Grimsley?

A No, not that I know.

Q What did Mr. Sheridan say?

A "How are you?"

Q All right. Is that all he said?

A Well, essentially he said, "How are you doing? Good-bye."

Q That was all that was said?

A No, I didn't say that was said, I said that was essentially what he meant, "How are you getting along? Good-bye."

Q Who was in the room when this occurred?

A I believe the lady in there, I don't know her name that types, and the marshal that whose office is in there, he may have been in there.

Q All right. And you were there approximately 30 minutes?

A I am just guessing, sir.

Q Then did you see any government counsel later on last evening or this morning?

A No, sir.

End Tk 13A
Tk 14 fls.

Q Did you--where did you go when you left the room?

MR. NEAL: Your Honor, we object to that. Irrelevant.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q With whom did you--with whom did you have any discussions this past evening?

MR. NEAL: Your Honor, that is irrelevant, unless it concerns the testimony in this case.

MR. BRANSTETTER: That is what I am trying to find out.

THE COURT: Sustained.

MR. BRANSTETTER: Well, I am doing this in the light of the request that was made. Only on this past evening before court adjourned.

BY MR. BRANSTETTER:

Q Did you talk to anyone about any matters that you have testified about or that you might testify about on yesterday?

MR. NEAL: Your Honor, he can't answer what he might testify about.

THE COURT: Overruled.

THE WITNESS: No, sir. I followed the instructions of the Court as closely as I knew how, I mean, I can't--

BY MR. BRANSTETTER:

Q (Interposing) What marshal did you talk to?

A Will you let me finish?

Q Yes, sir. Go ahead.

A I can't say I didn't say something about may have come up. I don't know what you will bring up next. It might be the weather. So I may have said something about whether something like that but as far as the Court's orders I tried my best to follow them.

Q What did you talk about then with the marshal?

MR. NEAL: Your Honor, we object to that.

THE COURT: Sustain the objection.

MR. BRANSTETTER: Said something I might bring up.

BY MR. BRANSTETTER:

Q Did you talk about any matters that you have talked about on the witness stand to any marshal or any official with the government this past day, yesterday?

A Sir, I have told you I have tried to follow the Judge's--

Q (Interposing) Just answer the question, did you or didn't you? You know whether you talked to him or not.

A No, I followed the Judge's--will you let me finish?

THE COURT: Just answer the question.

THE WITNESS: All right. Could I tell him so I

will clarify my mind what he is talking about? Any testimony being used in this case or has been used, orders he gave me, anything would be used or has been used as far as testimony in the case I think this is the way I understood it, anything pertaining to the Court here.

THE COURT: Go ahead.

BY MR. BRANSTETTER:

Q All right. Did you and the marshal talk about or are you saying what you talked about?

A Do what?

Q Did you and the marshal talk about what you just answered?

A Certainly not.

Q Okay.

A That is the best I can remember. The Judge's instructions, your Honor's instructions, what I am supposed to follow, not what the marshal tells me.

Q Has the marshal told you anything about testifying, testimony?

THE COURT: Well, let's proceed.

BY MR. BRANSTETTER:

Q I will ask you if on Page 3064 of the transcript if you did not state that you didn't know why you went to Nashville to take the assignment?

A You may be reading part of an answer there, sir.

I would have to have the whole statement.

MR. NEAL: This is the same thing we objected to and the objection was sustained, your Honor.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Did you pass any money to any jurors during the Nashville trial?

A Do what?

Q Did you pass any money to any jurors during the Nashville trial?

A No, sir, I did not.

Q Did anyone give you any money to pass to any jurors during the Nashville trial?

A No, sir, I didn't know them. If I knew them I wouldn't have been passing--

Q (Interposing) If you knew them you would have been doing what?

A If I knew them I wouldn't be passing, that isn't what I was there for.

MR. NEAL: Your Honor--

MR. BRANSTETTER: (Interposing) May it please the Court, let the witness answer. We never have got an answer to this question.

THE COURT: Sustain the objection.

MR. NEAL: Object to Mr. Branstetter not letting

me make an objection.

THE COURT: Well--

MR. BRANSTETTER: (Interposing) Does the Court rule that I can't ask him what, not what he said he is there for? Am I precluded from asking him what he was there for?

THE COURT: Mr. Branstetter, we have been over that many number of times. Proceed.

MR. BRANSTETTER: The Court is ruling that no cross examination can be had by counsel for Defendant Campbell on any matters that have been asked by other counsel?

THE COURT: I have sustained the objection, Mr. Branstetter.

MR. BRANSTETTER: If this is the ruling, I have no further questions.

THE COURT: The Court did not say that was the ruling. I sustained the objection to the question. If there is nothing further with this witness--

End Tk 14
Tk 14A fls.

MR. BRANSTETTER: May it please the Court at this time on behalf of Defendant Campbell I move for a mistrial on the basis counsel has not been permitted cross examination of the witness.

THE COURT: Overrule the motion.

MR. BERKE: Your Honor--

MR. BROWN: (Interposing) Your Honor, does that motion go to all defendants, I assume, from the Court's ruling? If not, certainly I want to make the same motion on behalf of Defendant King.

THE COURT: Allow the same motion to be made and overruled as to all defendants.

MR. BERKE: Your Honor please, since I have cross examined him, the government has furnished me some exhibits which were not available at the time I cross examined him. I understand the Court's ruling would be that I could question him with reference to those exhibits?

THE COURT: All right.

FURTHER CROSS EXAMINATION

BY MR. BERKE:

Q Mr. Partin, since I have cross examined you I have received your long distance telephone calls that you made from your hotel to Childersburg, Alabama, now, you made 11 trips there, that's correct, isn't it? Eleven different trips to the hotels in Nashville?

A I would have to look at the records, sir, to answer you.

Q All right, and I believe you said that your girl friend did live in Childersburg, Alabama?

A I told you she is a very good friend of mine, sir.

Q Could you give the jury now with your memory that you have any idea how many calls that you made to your girl friend in Childersburg, Alabama on the eleven visits that you made to Nashville?

MR. HOOKER: We object to this as immaterial, if Your Honor please.

THE COURT: Sustain the objection.

MR. BERKE: If Your Honor please, these are matters now that I did not have the exhibit to before.

THE COURT: Sustain the objection.

MR. BERKE: Well, may I ask him, I have the number of calls, may I ask him did you make so many "X" number of calls? I'm trying to just relate to that and quit, Your Honor.

THE COURT: What is the possible materiality of that, Mr. Berke?

MR. BERKE: If Your Honor please, here is a man that in our contention--

THE COURT: (Interposing) Well, just state briefly are you talking just about his memory, is that what

you are talking about? Is this about his memory?

MR. BERKE: I beg your pardon?

THE COURT: Is this about his memory?

MR. BERKE: About his memory and about using union funds to call his girl friends, if Your Honor please.

THE COURT: Well, that has been a matter that we have had examination upon, Mr. Berke. Sustain the objection to the last question. Let's proceed.

BY MR. BERKE:

Q Isn't it true that you made more calls to Childersburg than you did anywhere else?

MR. HOOKER: We object to that as being immaterial and argumentative.

MR. BERKE: Not argumentative. These are factual, if Your Honor please, as shown by the exhibit.

THE COURT: All right.

THE WITNESS: I don't know, sir. You would have to show me.

BY MR. BERKE:

Q Isn't it true that you made 31 calls to Childersburg?

A I just got through telling you, Mr. Berke, I don't know.

MR. NEAL: Your Honor, that is the very matter the Court sustained the objection to.

MR. BERKE: The witness himself, if Your Honor please--

THE COURT: The witness doesn't know. He has answered.

BY MR. BERKE:

Q You say you don't know that you made 31 calls?

A That's right, sir.

THE COURT: All right. Any redirect examination?

MR. HOOKER: Anything further for any of the defendants?

THE COURT: All right.

MR. HOOKER: That is all, if Your Honor please. The witness can stand aside.

THE COURT: You may be excused at this time, Mr. Partin.

THE WITNESS: Thank you, sir. (Witness excused.)

MR. SILETS: Your Honor, we would serve a subpoena on this man.

THE COURT: Well, now, in regard to any subpoena served upon him, you will have to tender him the mileage from here to Baton Rouge and back, and the per diem as required by law. This witness will not be expected to go at his own expense down to Baton Rouge, Louisiana and back here to court. So, tender him the mileage.

MR. SILETS: It has been done, Your Honor.

THE COURT: Per diem and he then becomes your witness on any further examination in that respect.

MR. SILETS: My understanding is the money has been tendered to him.

THE COURT: All right. Yes, serve the subpoena and tender the money to him.

MR. BERKE: I have a motion here I would like for Your Honor to see.

THE COURT: All right.

THE CLERK: Raise your right hand, please? Do you solemnly swear that the testimony you will give in this case shall be the truth, whole truth, nothing but the truth, so help you God?

THE WITNESS: I do, sir.

THE CLERK: Have a seat.

MR. HOOKER: Mr. Neal who is going to examine this witness stepped out just a moment, if Your Honor please, but he will be right back.

THE COURT: All right.

NILES E. KITCHEN,

a witness having previously duly sworn, and recalled at the instance of the United States of America, was examined and testified as follows:

REDIRECT EXAMINATION

BY MR. NEAL:

Q Would you state your name, please, sir?

A Niles Kitchen.

Q Mr. Kitchen, you have testified here before in this case previously?

A Yes, sir.

Q You are employee of the Southern Bell Telephone Company?

A Yes, sir.

Q How long have you been employed, sir?

A Nine years.

Q I believe you testified you were custodian of the records of the Southern Bell Telephone Company at Nashville, Tennessee?

A Yes, sir.

End 14A

Tk 15 fol.

MR. NEAL: We ask that these be marked as Government exhibits.

MR. DALE: 134 through 138, your Honor.

(The toll tickets referred to above were marked Government's Exhibits No. 134 through 138 for identification only.)

BY MR. NEAL:

Q Mr. Kitchen, I show you what has been marked for identification as Government's Exhibits 134 through 138 and I ask if you recognize those, sir?

A Yes, sir, I do.

Q Are they records of your company?

A Yes, sir, they are.

Q Are they made and kept in the regular course of business of your company?

A Yes, sir, they are.

Q Is it the regular course of business of your company to make and keep those records?

A Yes, sir, it is.

MR. NEAL: We offer them in evidence.

THE COURT: All right.

MR. NEAL: Show them to counsel for the defendants.

MR. SILETS: Your Honor, now, this is a matter that I brought up to the Court yesterday. This man has been on the witness stand before, he was served with a subpoena which calls for the production of these records. The government

by this tactic has effectively precluded this defense from ascertaining all of the evidence in a relevant and material fashion. They have secreted and suppressed these until such time as it served their purpose.

Now, the man who testified previously for several days, Mr. Partin, is now gone, these very documents --

THE COURT: (Interposing) If there is any question about that, let's have Mr. Partin wait, remain available.

MR. SILETS: Your Honor, this is my point, the argument I have made on several occasions about the defense's motion under Rule 16 of the Federal Rules of Criminal Procedure, the government has in effect suppressed this evidence, relevant, material evidence to the other man's testimony.

THE COURT: Well, you will be permitted to cross examine him further if you desire to do so. Have Mr. Partin remain available.

MR. NEAL: May it please the Court, counsel spoke of suppressing. Would the Court instruct the jury that the government voluntarily turned over records to the defendants without an order of this court, without the Court holding that we had to? That is in the record.

MR. SCHIFFER: That is not so, your Honor.

THE COURT: Well, ladies and gentlemen, disregard the arguments of counsel, disregard the argument of counsel about suppressing anything.

MR. SILETS: Could we inquire?

THE COURT: There has been nothing withheld in this case contrary to the law or to the rules of the Court, to the Court's knowledge.

MR. BRANSTETTER: May it please the Court, I respectfully, most respectfully object to this statement.

THE COURT: All right, strike that remark and disregard that remark of the Court and disregard the statement of counsel.

MR. SILETS: Could we inquire of the government at this juncture whether there is anything else that they have somewhere back in their files concerning this witness that we have never had access to, never had an opportunity to examine him about?

THE COURT: Mr. Silets, that is not a proper matter to bring up or say at this time. Proceed with the examination.

MR. SCHIFFER: Your Honor, on behalf of the Defendant Parks I respectfully move for a mistrial. I think the Court's remarks and whether or not the jury chooses to disregard them are not, having been made in conjunction with a vital matter which we say is the suppression and the hiding of evidence, which under the rules we were entitled to have long before and to have enough time to study for cross examination of Mr. Partin, and in view of the position taken by the

Court, Mr. Parks is so prejudiced now that we respectfully move for a mistrial.

THE COURT: Overrule the motion.

MR. HAGGERTY: Does that motion apply to all defendants?

THE COURT: Allow it to apply to all defendants and allow it to be overruled as to all defendants.

MR. SILETS: Your Honor, of course, I make my objection to these documents. Mr. Neal has offered them in evidence. I not only move or object to them on the basis I have already stated but on the basis and the argument that I have stated previously that there is not a sufficient foundation laid under Section 1732, Title 28, United States Code, for the introduction of these documents.

THE COURT: Excuse me. Are these documents that are kept under your supervision?

THE WITNESS: Direct supervision, yes.

THE COURT: Overrule the objection.

MR. NEAL: May it please the Court, the remarks made of counsel, I am advised that records of these calls, hotel records of these calls, were turned over to defense counsel.

MR. SILETS: Your Honor, these are the very slips that we asked for.

THE COURT: Gentlemen, let's not argue about these

matters, proceed.

MR. NEAL: May they be received in evidence, your Honor?

THE COURT: Yes, sir.

MR. NEAL: Beg your pardon?

THE COURT: Yes, sir.

MR. SCHIFFER: So far as the Defendant Parks is concerned, your Honor, due to the manipulation of these records as we have indicated by the government we at this time move for a mistrial and we certainly move your Honor not to admit these records in evidence since the government itself has had a suppression of them and refused to make a disclosure at the proper time.

THE COURT: Overrule the motion.

MR. NEAL: May the remarks of counsel be stricken, your Honor?

THE COURT: Proceed.

MR. SCHIFFER: I stand on my remarks.

MR. NEAL: May the remarks of counsel be stricken, your Honor?

THE COURT: Yes, disregard the remarks of Mr. Schiffer in that respect.

(The toll tickets previously marked Government's Exhibits Nos. 134 through 138 for identification were received in evidence.)

End 15
15a fls

Q Mr. Kitchen, would you take Government's Exhibit No. 134, please, sir, and tell us what that is?

A This exhibit is a marked sense toll ticket reflecting a call placed to Huntington, West Virginia, on 10-31-1962.

MR. SCHIFFER: He is going too fast, your Honor. Would he slow up?

THE COURT: Yes, slow up, please.

THE WITNESS: Yes, sir.

BY MR. NEAL:

Q October 31, 1962?

A A call placed to Huntington, West Virginia, yes, sir.

MR. SILETS: Your Honor, I am going to object to this document inasmuch as I have examined this record in detail and there is no conversation related in this record from the Witness Partin concerning a call of October 31st. Now, that may be a failing on the part of Mr. Hooker or Mr. Neal but a question was asked and the witness never answered the question and there is no testimony whatsoever and I move that this document be stricken and excluded from evidence as it is not relevant.

MR. NEAL: Your Honor, the Witness Partin testified to three or four calls he had with the person, we are going to show the calls were made to. He did not specify the

dates, of course.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Now, would you tell us, sir, that's a call on October 31, 1962?

A Yes, sir.

Q What is the time of the call, sir, time of day of the call?

A This particular call was placed at 7:15 A.M.

Q Nashville time?

A Yes, sir, Nashville time.

Q Central Standard Time?

A Central Standard Time, yes, sir.

Q All right. What was the duration of the call?

A The duration of the call was one minute and 16 seconds.

Q Now, does the record show, sir, to whom the call was made?

A Yes, sir, it does.

Q To whom was the call made?

A The call was placed to Mr. Anthony Tweel, however, he was not there and it was accepted by his brother.

Q What is the name?

A It just says "Agreed his brother."

MR. SCHIFFER: Objected to.

MR. ALEXANDER: Objected to.

MR. SCHIFFER: That's rank hearsay.

MR. ALEXANDER: Has nothing to do with this.

THE COURT: Sustained, disregard that statement.

BY MR. NEAL:

Q To what number was the call made?

A The call was placed to 523-0150.

Q All right, sir. And from whom was the call made?

A The call was made from--the name is Partin, a Mr. Partin.

Q Mr. Partin. I see. All right.

MR. SCHIFFER: That's what the record discloses, your Honor, that is all this man is testifying to, is what this document says, he is not testifying to the fact that it was a call made.

THE COURT: The Court so understands that he is testifying just from this document.

MR. SILETS: In other words--

Q (Interposing) Just to clear up the matter, sir, you are testifying what the records show?

A I am indicating what the record reflects.

Q From here on your testimony will be what the record shows?

A What the record shows.

Q You have no knowledge personally?

A None whatsoever, sir.

Q Very well. Does it show what number Partin called from?

A Yes, sir, he called from 255-2121 and the call was billed to Room 623.

Q And you have testified previously that 255-2121 or ALpine 5-2121 was the phone number of the Andrew Jackson Hotel?

A This is correct.

Q In 1962?

A Yes, sir.

Q All right.

MR. HAGGERTY: Does it disclose whether or not a credit card was used while we have the man here?

THE WITNESS: No, sir, this is not a credit card call, sir.

MR. HAGGERTY: All right.

MR. NEAL: May it please the Court, if defense counsel will refer to the documents we previously turned over they will see the record of that call in the records of the hotel.

THE COURT: All right.

MR. HAGGERTY: May we get this witness to tell from that card while we have the cards here where the call was made from?

THE WITNESS: Yes, sir.

THE COURT: He testified to that, I believe, at the Andrew Jackson Hotel.

THE WITNESS: The Andrew Jackson Hotel, sir.

BY MR. NEAL:

Q What room, sir?

A Room 623.

Q Room 623. All right, sir. I will show you Government's Exhibit No. 99 and I will ask you if that doesn't show a Mr. Partin registered at 623 on October 31st?

MR. SCHIFFER: Pardon me?

MR. SILETS: I object to that, he's not competent to testify about that.

MR. NEAL: Well, it's in the record, your Honor, I will pass it to the jury.

THE COURT: Sustain the objection.

MR. NEAL: Would you pass that to the jury?

MR. SILETS: I called the Court's attention at yesterday at 1:30 P.M. outside of the presence of the jury, Mr. Neal denied the exitence of any toll tickets pertaining to the long distance call made by Mr. Partin at the Andrew Jackson Hotel.

THE COURT: Gentlemen, we have heard argument about these matters. If you wish to argue them further I will take them up after we excuse the jury.

MR. NEAL: Would you pass the card to the jury, the card he has just identified?

MR. SCHIFFER: Your Honor, as to these toll tickets, I think it's a vital issue at this point because it's a representation made by Mr. Neal that the toll tickets were not in the possession--

THE COURT: (Interposing) Mr. Schiffer, I will hear argument upon that.

MR. SILETS: May we have the jury excluded so we may discuss this, your Honor, because otherwise he is going to continue testifying if the Court rules.

THE COURT: All right, ladies and gentlemen, step out for just a moment.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

End Tk 15A
Tk 16 fls.

THE COURT: I rather believe we might as well excuse the jury for lunch. Just a moment, with counsel, does counsel desire to have the jury back for the purposes of giving the usual instructions?

MR. ALEXANDER: No, sir.

MR. SCHIFFER: No, sir.

THE COURT: If not, the marshal may take the jury to lunch. Be back at one-thirty. Is there any reason why this witness might not be excused at this time until one-thirty? You can likewise be excused.

(Witness temporarily excused.)

MR. SILETS: Now, Your Honor, I have at length well argued upon this proposition when I renewed the motion under Rule 16 and we asked for a mistrial, I think that was Monday, on the very basis that the government had not turned over to us all of the records. And from time to time I have been insisting that the government furnish us with additional information concerning the long distance calls from the hotels. Now on Page 4452 of the record Mr. Neal says, we have here--, and this is the beginning of the session, we have heretofore turned over all the records we have with respect to long distance calls from the Andrew Jackson Hotel.

Now, he puts on a witness who is testifying as to what these long distance calls were and producing the toll tickets. Now Your Honor, I can't too strongly urge to

the Court that this very method of producing evidence by the government has effectively hamstrung the defense. It has effectively prevented them from preparing their defense and preparing their cross examination.

I don't know if they are piece-meal going to bring this man back for a third time about somebody else and we have asked time and time again that they produce the documents. Now this is a suppression in my book, this is as great an obstruction of justice as what Mr. Dorfman is being charged with having made a phone call surreptitiously alleged phone call, there is no difference in obstruction of justice if that be an endeavor assisting in the endeavor than what Mr. Neal is doing here.

Your Honor, this is not a game or sporting event. This is a court of law and these people, it is not who is going to win or who is going to lose. Mr. Neal knows that this is a matter that justice be done and when he does not present the evidence in such a fashion so that the defense knows what is going to happen, when he suppresses it and holds it back until it suits his purpose, this is not following the rules set down by the courts.

This is his own little game. Now, when he specifically starts off the session in yesterday afternoon says we have turned over all the records we have concerning those long distance calls and at the Andrew Jackson Hotel,

if that is not a misleading statement I don't know what it is.

Now, we can't persist and continue to go through this kind of procedure in this lawsuit. I think we are entitled to know and we are entitled to know before the onset of the case and at least while the case was proceeding, we are entitled to know if there were such documents. The government has held them back until it suited their purpose.

Now, I move that the witness' testimony be stricken. He has been here before. He testified. He was served with a specific subpoena. He appeared in answer to that subpoena.

Now, if they didn't ask him in the first instance about these records this is their fault. Now to bring him back two or three times piece-meal that is their obligation. They had a chance to examine him in full.

Now, I move to strike his testimony and have these documents stricken from the evidence for each of the grounds that I have set forth.

MR. SCHIFFER: Defendant Parks joins in the motion, Your Honor, and goes one step farther because of the under-handed tactics used by the government in this action, in depriving the defendant Parks of his effective right to everything in the possession of the government for his proper cross examination of the witness Partin and in view of the stated, and it is on the record, of the stated representation

made by Mr. Neal to this court that he had turned over all phone records concerning those toll charges from the Andrew Jackson Hotel, to the defendants, and now it turns out he had made a false representation to the Court I move for a mistrial.

MR. GRADY: Now, Your Honor, as to Mr. Tweel, we adopt the other motions--

THE COURT: All right, allow all the defendants to adopt the motion?

MR. GRADY: No, sir, I would like to add a little to that.

THE COURT: All right.

MR. GRADY: As I recall the record from memory on October 31 on direct examination, Mr. Hooker asked this man if he made a call or if he talked, I don't remember which one it is, it is in the record, to Mr. Tweel.

MR. SILETS: Page 3273.

MR. GRADY: And he answered that he did. They never pursued it any further. And then they bring this man in, of course, we have been denied those records. It personally concerns this Defendant Tweel. And Mr. Neal knowing that the answer was going to be and we having no knowledge because we had no record, what the answer was going to be, had to wait until it came out that this was going to be a hearsay statement, prejudicial to this defendant, and in no way known by

him previously of that time because of the suppression of these records and full well knowing what this man was going to say that he did not talk to him, he is not only impeaching Mr. Partin, his own witness, whose credibility he had previously vouched for by putting him on the stand under oath, but he is also putting Mr. Tweel in the position of injecting in front of the jury testimony that the government knew was immaterial, hearsay, and under Your Honor's rulings not admissible for any purpose and highly prejudicial and on that basis and on the basis of these other objections which apply personally to Mr. Tweel we would like to renew our motion for a mistrial and or a severance.

THE COURT: All right.

MR. BROWN: Your Honor, if I may on behalf of Defendant King, as the Court stated, adopt those motions and I would like to set out I'm sure the court recalls when the first telephone witness was put on here, at that time this objection was made and it was brought out to the attention of the Court that the government had subpoenaed all of the records in that period and the government had all of those records under thár control. Therefore, the defendant had no way of getting to any records whether they were material or not because the government had more or less confiscated those records and kept them and that was the testimony of one of the officials of the telephone company that he had brought

all the records and if the Court will recall he also testified that other records other than those subpoenaed by the government had been destroyed, after being kept one year at the directive of the government.

End 16

16Afoll.

Now, we have been purposely excluded from getting to any of these records by the method that the government has taken all of them and they will decide in their own discretion what they want to put on and how they want to put it on. It is grossly unfair. It is contrary to all the rules and we object and we ask at this time, if the Court please, for a mistrial on behalf of the Defendant King.

MR. SILETS: Now, your Honor, in that connection -- just a moment, sir. If the Court will remember the witness from the Illinois Bell Telephone Company, Mrs. Myers, I specifically asked her concerning her subpoena what she brought in and I was restricted by Mr. Neal's objection and the Court sustaining the objection as to going into what she brought in under her subpoena and I was not only restricted in that aspect, I was restricted from seeing what she brought in.

Now, this again points up what Mr. Brown says, we have been restricted at every turn in this case to see what people have been required to produce and in fact produced under their subpoena.

THE COURT: Mr. Silets, have you issued a subpoena to the telephone company of Nashville for any records?

MR. SILETS: In Nashville?

THE COURT: Yes, sir.

MR. SILETS: I have not, no, sir.

THE COURT: Has any defendant issued a subpoena

to the telephone company in Nashville?

MR. SILETS: I cannot speak for any other defendant.

THE COURT: I beg your pardon?

MR. SILETS: I cannot speak for any --

MR. HAGGERTY: (Interposing) No, and the reason we didn't --

THE COURT: (Interposing) Just answer, have any defendants subpoenaed any records from the telephone company in Nashville?

MR. HAGGERTY: The answer is no, sir, and I would like to state the reason why.

THE COURT: All right.

MR. HAGGERTY: We communicated with the telephone company and they informed us that all records have been subpoenaed by the federal government and none were available to respond to our subpoena. That is the reason.

THE COURT: All right.

MR. NEAL: After all, your Honor, may I respond briefly to this?

THE COURT: Yes, sir.

MR. NEAL: At page 44 -- counsel knows exactly that they are misleading the Court. On page 4446 in the transcript, starting at page 4445 --

Mr. Berke says, "If your Honor please, may we make demand on the government for the telephone calls, that is, the long-distance calls shown on the exhibit on the Andrew Jackson Hotel, the various exhibits that we have here, I think there are 11 of them, and they are all long-distance calls stated on those particular dates.

"Now, those are the dates that we want the long-distance calls, that is, a memorandum of the calls, who they were made to and so forth which we are advised that the government has.

"I say, your Honor, if they are referring to those long-distance calls made from the hotel bills we have turned them over, they had them to photostat, a bulk of them, and that is what we have got. I assume they are talking about -- we have some telephone records we are going to put in when we get through putting them in we will turn them over."

Now, so we said we have telephone records.

"If he will designate what they want to use, they can't interrupt our proof in this manner to get records from us."

Mr. Silets says now, "Your Honor, that is the same matter," after I had said we had telephone company records Mr. Silets said, "Your Honor, this is the same matter I asked about yesterday."

The Court said, "Yes."

Mr. Silets says, "It is not what Mr. Neal -- it's not a traffic sheet, it's the individual toll tickets that the operator makes up and gives a copy to the guest when he leaves the hotel.

"Now, it may be it is attached to Mr. Partin's guest slips, his bills, I don't know, but, in any event," there is an interruption. Mr. Silets says again, "The hotel keeps a copy of the toll slips."

I say, "Your Honor, I will check, if we have those, I don't think we have those sheets."

The Court says, "Well, if not advise the Court."

I say, "But I don't think we have them. If we have them we will be happy to turn them over to Mr. Silets."

Now, another matter is taken up. At the afternoon recess, at page 4452, the following colloquy takes place, "One moment, gentlemen. Yes." That is the Court.

I say, "May it please the Court, we do not have the slips Mr. Silets spoke of with respect to calls made by the Witness Partin out of either one of the hotels at which he stayed. We do have and I am now turning over all the records we have with respect to both long-distance and local telephone calls of the James Robertson Hotel on the two days the witness has testified he stayed there. Of course, these calls are not limited to the calls made by the Witness Partin. They are all calls, long-distance and local, made from the hotel on that

date. These are all the records we have relating to the James Robertson Hotel.

"We have heretofore turned over all the records we have with respect to long-distance calls from the Andrew Jackson Hotel. And I am having someone now and they will be ready in about 10 minutes, extract the local calls, all records of local calls, from the Andrew Jackson Hotel made on the days the exhibits indicate the Witness Partin was staying at the Andrew Jackson Hotel. We are extracting these merely as a convenience of the defendants, I first started to hand them over in bulk but there are three volumes like that, the traffic sheets of local calls made from the Andrew Jackson Hotel.

"We are endeavoring to take out the local calls corresponding with the days the witness stated he stayed at the Andrew Jackson Hotel."

Your Honor, may we make the statement without being annoyed by noise from counsel table?

THE COURT: Well, proceed.

MR. NEAL: "If that is not satisfactory, we'll turn over all the calls at the Andrew Jackson."

Mr. Berke says, "Local and long distance?"

I say, "You have the long-distance calls. That was the first book we turned over." This (indicating) as your Honor will remember and defense counsel will not deny.

"Then I assume that is satisfactory. Then that will be all the records of both local and long-distance calls made from the hotel while the Witness Partin was in Nashville."

Now, your Honor, all of that, of course, shows that we have telephone records that we have heretofore turned over all records of the hotel, all records of the hotel with respect to long-distance or local calls made by the witness.

Now, may I --

MR. SILETS: (Interposing) I am sorry.

MR. NEAL: Now, may it please the Court, I just want to hand up to the Court what we have turned over and they say they are surprised at all this and that and I have just checked the hotel record of calls from the Witness Partin, 623, to Huntington, West Virginia, on 7:15 a.m. on October 31st, that is the call that the witness is now testifying about.

Now, your Honor, we are entitled and when we put in our proof, I don't care what records, if they will specify they want from us and we have them, if they are in any way relevant, if they are not relevant, we'll turn them over, we may object to the relevancy. We don't care what records they say we have, if they are usable, if they are evidentiary in nature, as the Supreme Court said in Bowman, if they will ask for them, they are entitled to them but they are not entitled, your Honor, under any rule of law to disrupt our case. They can destroy our order of proof in the manner that

they are attempting to do.

MR. SILETS: May it please the Court, I refer to the record at page 4006, my argument or request of the Court on Friday last, I asked and I quote, "I now move that the government now produce all such documents that they have subpoenaed by virtue of the issuance of their process and have effectively been withdrawn from the possibility of the defense subpoenaing those records."

Mr. Neal then replied further on page 4008, "Your Honor, the government is not being arbitrary in this matter of records. If the defendants will specify to us which and what records they want and if that specification is anything like reasonable, we will comply."

End 17
17a fls

Now, I can't imagine our specifying with more degree of reasonableness and specificity. I have asked time and time again concerning these records what they had concerning these calls and Mr. Neal then comes into court and says, "We have turned over all we have about these phone calls from the Andrew Jackson Hotel."

Now, he comes in, brings in the same witness he had under subpoena before, the same witness he had the opportunity to produce and asked these questions, directed him to come back and ask these questions with only one purpose and that was to suppress this evidence until such time as it suited their purpose, not that the interests of justice be done but that Mr. Neal get another win under his belt.

MR. SCHIFFER: I am not so sure about the win yet, Ihave some mental reservations.

MR. SILETS: I have just been advised of a very significant point that what Mr. Neal has turned over to us as being the record of the Andrew Jackson Hotel is merely a compiliation of the phone calls themselves, doesn't show to whom it was made, from whom it was made, what city and the numbers and so forth.

MR. NEAL: Maybe you better check this and not take Mr. Hoffa's word.

MR. SILETS: It contains the time, the operator's initials, it contains the city to which it was made, the

party who was calling, the room he was calling from, the amount of the call and the tax charged but it doesn't show the numbers and it doesn't show who he called.

Now, Mr. Neal, if you will show where it shows it was called Anthony Tweel I will eat that document.

MR. NEAL: Mr. Silets first said on being prompted by Mr. Hoffa it didn't show who was making the call, it does say, "Who's making the call."

Your Honor, I have read the statement, it is quite clear. We have turned over everything that we said we will turn over. We will turn over the other records when they want them. We are not going to interrupt until the Court directs our order of proof to put these things on.

THE COURT: All right. Anything further?

MR. BROWN: Your Honor, if I might state briefly, it seems to me if Mr. Neal wanted to produce the things he said he would produce he could have relied on this record in cross examining this witness Partin, he had him up here or, rather, in examining him and bringing in Mr. Niles he had those records at that time and he is now attempting to introduce records that must show a lot more than what he has given us to search through. He has given us a lot of documents and told us to hunt out what we wanted in the thing while he knew exactly what he was going to present and had it under his control and we had no way of getting to it.

Now, Mr. Neal, if this record was good enough for us, why isn't it good enough for Mr. Neal? Why didn't he use the same record that he had given us, stating that that was the evidence, instead of bringing in these toll charges?

THE COURT: All right.

MR. BROWN: Mr. Tweel's name, as I understand, is not on any of these sheets.

THE COURT: Anything further?

MR. HAGGERTY: Yes, may it please the Court. At this time, I move again that the government turn over to us all records. We are going to have a constant refusal and fewd which results in nothing but prejudice to the defendant. I have gone through this with Mr. Neal in Nashville for nine weeks and bit by bit, drab by drab he has disclosed the records.

End 17A

18 foll.

And not until determination of that case, near determination of that case, did he produce or have produced a large number of records. Three hundred sixty-eight pounds. I think we are running into the same thing again withholding and suppression of records that should be furnished the defense.

MR. SILETS: I will go one step further, I will ask for all telephone records from all telephone companies relating to any testimony that has been given so far and which is not in evidence. I will ask specifically for all telephone tickets and any record whatsoever kept by any phone company relating to telephone calls made to Mr. Partin or from Mr. Partin.

I will ask for all records of hotel accommodations for Mr. Partin, no matter where they were, and when they were, which are in possession of the government.

I ask for all records of travel, I ask for all records of vouchers for monies paid or any indication or record kept by the government as a record of expenditures made for or on his behalf.

I ask for all W-2 forms or Forms 1099 issued to this individual for monies paid on his behalf.

I ask for Mr. Partin's income tax returns if they have them which must reflect all monies paid for or on his behalf which are compensation or reimbursement of

expenses.

And I ask for any and all documents relating to any testimony of any witness concerning any material or relevant matter which is in the possession of the government by virtue of their possession and the issuance of their subpoenas.

THE COURT: All right.

MR. SILETS: Including Mr. Grimsley.

MR. SCHIFFER: Your Honor, on behalf of Defendant Parks we want especially to note we want to have those toll records from the telephone company with reference to the calls that the Witness Partin testified he made from Dallas, Texas, all the calls.

MR. HAGGERTY: Your Honor, on the matter of subpoena, the subpoena was served as I have been informed on a Mr. Bennett, who is president of Local No. 5 of the International Teamsters at Baton Rouge. He was subpoenaed as of this morning to be here yesterday. As a matter of fact, it was a duces tecum subpoena and he has not appeared. Therefore, I will ask your Honor to enter a bench warrant.

THE COURT: All right. Well, has the subpoena been served?

MR. HAGGERTY: The subpoena has been served is my information. However, I will check on that further with the U. S. Marshal's office.

The marshal has informed us it has been served.

THE COURT: Well, let's check through the marshal's office if it has been served and if the per diem has been paid and when it was served. With reference to when the witness is to appear. All right. Anything further? Now, let's be in adjournment until 1:30.

MR. HAGGERTY: One thing, your Honor.

THE COURT: Yes, sir.

MR. HAGGERTY: I would like a ruling on the motion made by myself and Mr. Silets in reference to the production of records by the government.

THE COURT: Well, I will take all of these motions that have just been made under advisement and attempt to make some ruling upon them when we reconvene.

MR. NEAL: May it please the Court, would your Honor refer back to the official records of the government memoranda with respect, memorandum in response for copying and inspection?

THE COURT: Mr. Neal, a motion has been filed this morning entitled, Defendants Supplemental Motion to Dismiss the Indictment.

MR. BERKE: This will be the authorities in support of that motion.

THE COURT: All right, that motion will be filed by the Clerk and returned to the Court. If there is nothing

further, let's be in adjournment until 1:30.

(Thereupon, at 12:10 o'clock P.M. court was adjourned for the noon recess until 1:30 o'clock P.M.)

AFTERNOON SESSION

1:33 O'Clock P.M.
February 12, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and the following proceedings were had, to-wit:)

THE COURT: Yes, Mr. Branstetter.

MR. BRANSTETTER: May it please the Court, because of the respect that I have for Courts in general, and this Court in particular, I would like to state for the purpose of the record and for the technical legal reasons that various matters I sought to go into on cross examination of Partin were just and proper and I quote from Alford vs. United States, 282 U.S. 687, at Page 693, the following is a quote, "The purpose obviously was not as the trial court seemed to think to discredit the witness by showing that he was charged with a crime but to show by such facts as proper cross examination might develop that his testimony was biased because given under promise or expectation of immunity or under the coercive fact of his detention by officers of the United States which was conducting the prosecution.

"Even if the witness were charged with some other offense by the prosecuting authorities petitioner was

entitled to show by cross examination that his testimony was affected by fair or favor growing out of detention."

That was the basis of my effort to secure the admissibility of the letter that a general in Cuba wrote to this particular witness.

THE COURT: All right.

MR. BRANSTETTER: Also it was the basis of my effort to show that this person had consulted with a psychiatrist, that he had at one time stated to more than one individual that he was on dope, that he possessed a syringe and needle that he used, that I could have asked him specifically where it was located and who he told to get it for him.

THE COURT: All right. I will consider further those matters.

MR. BRANSTETTER: Now, I would like to make one motion, if I may, and although it may not sound at first blush to be serious I mean it very seriously.

The Defendant Campbell and, of course, other defendants, as far as that is concerned, in this case is indicted under the general statutes dealing with the obstructing of justice.

Now, we moved to suppress the testimony of Partin. That motion was disallowed and his testimony was admitted. During the proceedings involving the testimony on the sup-

pression of evidence and during Partin's testimony, I think it became clear and not subject to serious question that Partin was placed by the United States Government, paid by the United States Government, to obtain information from an attorney--which resulted in obtaining it from an attorney-client relationship in a lawsuit then in progress.

With that basis the statute that prohibits or proscribes the obstructing of justice or, bluntly, jury tampering as it has been referred to here, would first require as a predicate that there then be at the time involved a trial in progress or the administration of justice in accordance with the laws of the land. If, it seems to have been admitted here, there was at the time in question information being relayed that affected--that was contrary to the Sixth Amendment, there was not at the time involved the administration of justice at all because the government knew at this time that it was violating constitutional rights and there was no proper trial in progress, hence there could be no obstructing of justice, so I move that the indictment be dismissed on the basis that the allegations contained in the indictment with reference to the obstructing of justice, that there was no administration of justice in progress at the time of the events alleged.

Tk 19
Bk 20 fls

THE COURT: All right. I believe that motion should be overruled. Now, then, gentlemen, with regard to the motion --

MR. BRANSTETTER: (Interposing) Both motions were overruled, I understand?

THE COURT: No. I have overruled your motion just made for dismissal of the indictment. Did you have another motion pending?

MR. BRANSTETTER: I was asking on the reading of the material from Alford versus United States --

THE COURT: (Interposing) Yes. I am going to study that case further, Mr. Branstetter, and will study the matter further on that. Now, then, gentlemen, with regard to the motion made by Mr. Silets just before we recessed for the noon recess, for the production of documents as indicated in his statement, and as will be indicated in the record, the Court will order the government to produce the documents specified by Mr. Silets' motion, such production to be made by the government on or before the convening of court tomorrow, unless good cause is shown as to why additional time is needed. Or, in the alternative, that the government respond in writing to any portion of Mr. Silets' request that they deem for any reason is not subject to production by them.

With regard to the request of Mr. Haggerty for the production of records, the Court feels that that motion should

be overruled as too broad.

Now, with regard to the subpoena of a witness and the request of counsel for a bench warrant --

MR. HAGGERTY: (Interposing) Now, may it please the Court, the witness has appeared at noon. He is here with a suitcase full of the records of Local No. 5. Before placing him on the stand, of course, it would be necessary to talk with him, to go over these records, or it would take an interminable time if we had to examine the records in open court and in the presence of the jury.

The witness on my information refuses to turn over the records for examination by defense counsel. Therefore, I ask the able assistance of the Court that he be so directed to do. And I would like to know further who he has been in contact with and who has advised him not to turn over the records. Now, he is here in response to a subpoena duces tecum. He is right outside the door. I suggest that he be brought in the courtroom and His Honor instruct him.

THE COURT: Is he represented by counsel?

MR. HAGGERTY: That I do not know.

THE COURT: Well, if he is here, let him -- have him called in and let's see just where we are, gentlemen.

MR. HAGGERTY: His name is Bennett, or Benet, French.

THE COURT: Was there any attempt to locate whether

he was here before the request for the bench warrant was asked, Mr. Haggerty?

MR. HAGGERTY: I have just received this information, your Honor, and I can't make a representation to the Court. But he was not here according to our search at the beginning of court this morning.

THE COURT: All right.

MR. HAGGERTY: And he was not here yesterday. He was subpoenaed yesterday.

THE COURT: All right, do you propose to offer him as a witness at this time? If so, on what condition?

MR. HAGGERTY: We call for an examination of his record, it will be necessary to have someone identify those records. That goes to the defense. But we have to because of the voluminous records of the local we have to spend some time on them before we could have them in shape to present them in court.

THE COURT: All right, this is Mr. Bennett?

(Thereupon, a male person was brought into the court and the following proceedings were had, to-wit:)

THE COURT: Mr. Bennett, is this Mr. Bennett?

THE UNIDENTIFIED PERSON: Yes, sir.

THE COURT: Mr. Bennett, are you represented by counsel?

MR. BENNEIT: Yes, sir.

THE COURT: Who is your counsel?

MR. BENNETT: Mr. Bill Hutcheson.

THE COURT: Mr. Hutcheson?

MR. BENNETT: He is on his way over. I just talked to him from the --

THE COURT: (Interposing) Well, let's take this matter up then at -- we will take this matter up at 4:30. Have Mr. Hutcheson here at that time.

MR. BENNETT: 4:30, sir?

THE COURT: 4:30, yes, sir.

(Thereupon, the witness was excused.)

MR. NEAL: May we proceed, your Honor?

THE COURT: Yes, sir.

MR. SCHIFFER: Just one correction in the record.

THE COURT: One other matter for the record, gentlemen. All other motions made by the defendants following the exclusion of the jury just prior to the noon recess will be overruled, including the objections to the tendered Exhibits No. 134 through 138.

End 20
21 fls

MR. SCHIFFER: In accordance with Your Honor's direction on Mr. Silets' motion, which Your Honor directed the government to turn records over, I had also asked that on behalf of Mr. Parks and joined with Mr. Silets' motion that the direction of the Court to the government to produce the telephone records concerning any Dallas calls testified to by the witness Partin which he claims to have been made.

THE COURT: Well, allow that to be included in the order of the court.

MR. NEAL: Of course, Your Honor, it would be sometime this afternoon or this evening before we will get the transcript, I couldn't begin to remember the records called for by Mr. Silets.

THE COURT: I have indicated in my order that you produce them, or if it is necessary to have additional time that you show cause.

MR. SCHIFFER: Your Honor, there is just one correction in the record, yesterday's record, at Page 4605 on Line 5. Mr. Neal was speaking to the court on Line 5, "Could we have that list tonight for another matter?"

I understood him to say, "Could we have that lifted tonight for another matter?"

THE COURT: That is the Court's recollection of it, too, Mr. Schiffer.

MR. SCHIFFER: Yes, sir. May we have that corrected?

MR. NEAL: Yes, I believe that is right, I think that is.

THE COURT: The word "lifted" will be substituted then for the word "list".

MR. SCHIFFER: Thank you, sir.

MR. ALEXANDER: May it please Your Honor, I would like specifically to move that Exhibit 134 be excluded. At no where on that exhibit does the name of the defendant Nicholas Tweel appear, there is no evidence that Mr. Tweel was ever spoken to, as a matter of fact, the brother of Anthony Tweel was spoken to and I don't believe that is a proper exhibit to be admitted against this defendant.

THE COURT: Overrule that motion.

MR. SILETS: May it please the Court, Mr. Neal, in examining the witness with respect to Exhibit 134, had occasion to show the witness Exhibit 99 in evidence.

Now, if the Court will recall the time the bills of the Andrew Jackson Hotel were introduced and Mr. Neal, on behalf of the government, sought to have them admitted in evidence, Your Honor sustained my objection to that but later agreed that they be offered in evidence for the sole and exclusive purpose of showing to the jury the markings at the top of the exhibits.

Now Mr. Neal is attempting by this witness, who is not competent to testify from these documents, not only to

testify as to incompetent matters but to testify to the substance and truth of the matters contained on the exhibit itself, which is not in evidence and rather than persist in this objection throughout while the jury is here I would like to now have it understood Mr. Neal is not going to pursue this with this witness because these documents are not in evidence and he is not competent to testify to them.

THE COURT: Yes, Mr. Silets, that is the Court's recollection, that they were admitted solely, they were admitted for identification generally and were admitted for examination by the jury only with reference to the matters of cross examination relating to any markings on the bills.

MR. NEAL: Then, Your Honor, could we withdraw this witness momentarily and put Mr. Leon Womble on, the Andrew Jackson Hotel? We will make it entirely relevant and competent.

THE COURT: All right. May we have the jury return? Have the witness return.

MR. NEAL: Mr. Kitchen, we are going to recall you in a moment.

MR. KITCHEN: Excuse me.

(Thereupon, the jury of 12 and 4 alternates returned into open court and the following further prpceedings were had, to-wit:)

MR. NEAL: I ask that this be marked as the next

exhibit.

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. WOMBLE: I do.

MR. DALE: Have a seat.

LEON WOMBLE,

a witness called at the instance of the United States of America, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. NEAL:

Q How are you, Mr. Womble?

A Fine, thank you, sir.

Q You are the manager of the Andrew Jackson Hotel in Nashville?

A Yes, sir.

Q How long have you been manager, sir?

THE COURT: Let's have the witness state his full name.

MR. NEAL: I beg your pardon.

BY MR. NEAL:

Q Would you state your full name, please?

A Leon Womble.

Q (Spelling) W-o-m-b-l-e?

A That's right, yes, sir.

Q You are the manager of the Andrew Jackson Hotel?

A Yes, sir.

Q In Nashville, Tennessee?

A That is right.

Q That is called, technically called, I guess, the Dinkler-Andrew Jackson?

A Yes, sir.

Q How long have you been manager, sir?

A Well, I have been up there for 23 years.

Q I see. And you have been manager how long, sir?

A Twenty-three.

Q Twenty-three years?

A Yes, sir.

Q As manager are you familiar with the records of the Andrew Jackson Hotel?

A Yes, sir.

Q Signature cards, ledger sheets, and so forth?

A Yes, sir.

Q I show you what has been marked--

MR. SCHIFFER: (Interposing) Objected to, Your Honor, unless this witness is qualified as being the custodian and it was his course of operation and his responsibility to be the custodian of the particular records. No proper

foundation has been laid for this testimony.

THE COURT: Overrule the objection at this point.

MR. HAGGERTY: I further object that all this witness can testify is to the form of the signature cards, the form issued by the hotel, as general manager he would have no knowledge of the entries made on or anything of that kind.

THE COURT: I am unable to pass upon the objection at this time. Overrule the objection.

End 21

Tk 22 fol.

BY MR. NEAL:

Q I am handing you for the record Government's Exhibit Nos. 94, 99, 100, 101, 102, 103, 104, 105, 106 and 107, and I will ask you, sir, if you recognize those documents?

MR. BROWN: Your Honor, I am afraid I missed the Court's ruling on Mr. Schiffer's motion. I heard the Court on Mr. Haggerty's motion. Did the Court rule on Mr. Schiffer's motion?

THE COURT: Which motion? The last one that he made?

MR. BROWN: Yes, sir, this past one to the proper foundation of this witness.

THE COURT: Overruled the objection.

BY MR. NEAL:

Q Sir, have you examined the records, sir?

A Yes, sir.

Q Are those records of the Andrew Jackson Hotel?

A Yes, sir.

Q Are those records made in the regular course of the business of the Andrew Jackson Hotel?

A Yes, sir.

Q That is the regular course of the business to make those records and the entries thereon?

A Yes, sir.

Q At or about the time of the events described?

A Yes, sir.

Q Now, sir, are you the general custodian of the records of the Andrew Jackson Hotel?

A No, sir.

Q Pardon me?

A No, sir.

Q Who is the custodian?

A The general auditor is the custodian of the records.

Q How is he the custodian of the records?

A Well, sir, he is in charge of the records and handling the records.

Q Are you in charge of him?

A Yes, sir.

MR. BROWN: Now, your Honor, I suggest Mr. Neal put him on if this gentleman testified he is the custodian of a man, as I understood his answer he is not the custodian of these records and we object to his testimony along that line.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Now, sir, you said you recognized those records of the Andrew Jackson Hotel?

A Yes, sir.

MR. NEAL: We offer these in evidence.

MR. SCHIFFER: Objected to, your Honor, on the grounds stated. This man has already stated as unequivocally as he can, I believe, that he is not the custodian of these records. He has never handled these records. They are actually prepared by someone else, an auditor, and this auditor has--is the real custodian of these records and so far as the introduction of these papers into evidence at this time, your Honor, we believe no proper legal foundation has been laid by the government to produce those records through the testimony of this witness. He has said unequivocally he is not the custodian and someone else and identified the other party.

MR. SILETS: Your Honor, I make the same objection I have made previously to records produced by various phone companies where Mr. Neal has asked the same line of questions, that the proper foundation required by the statute, the Business Records Act, has not been laid inasmuch as this man cannot testify as to the making of the entries, having been made under his supervision, and at the time when he would know or have reason to know that they were truthfully made in the regular course of business.

MR. NEAL: May it please the Court, this man has been manager of the Andrew Jackson Hotel for 23 years. Proper foundation was certainly laid. They were made in the regular

course of business. Regular course of business required that they be made. The entries therein were made at or about the time of the events. This man is perfectly capable to testify to that. Certainly all the foundation has been laid.

MR. SCHIFFER: It is analogous, your Honor, with the president of General Motors, the president of General Motors being head of an organization that employs somewhere in the neighborhood of over a quarter of a million people. He is the acting president of a realized operation of that company. However, he is not the custodian of every record kept by General Motors. And he certainly is not considered the custodian because he is the president. And when he, should he take the stand here and relate to the Court that a certain individual is the custodian, then it is incumbent upon the government to produce the one who actually is the custodian by the evidence and testimony of the president of the organization, and that is the party as custodian who can be identifiable on the statute but clearly by the very statement made by this witness he is not the custodian and, therefore, we refuse to be bound and we ask the Court not to admit this testimony at this time until the proper foundation is laid as to who is the custodian, who we can have the proper identification of these records.

MR. NEAL: May it please the Court, I will read the Court the law if the Court desires. We have submitted

cases on this. There is no requirement that he have personal knowledge of entries on there. There is no requirement to my knowledge that the direct custodian appear. He recognizes the records. I will ask him one more question.

BY MR. NEAL:

Q Sir, Mr. Womble, you were subpoenaed before the grand jury in Nashville, I believe?

A Yes, sir.

Q And you were subpoenaed to bring certain records?

A Yes, sir.

Q Are these part of the records you brought, sir?

A I would have to check those, sir, with the subpoenas before giving you a truthful answer.

MR. HAGGERTY: Object to that, sir, and I am not in any way binding--

THE COURT: (Interposing) Sustain that.

MR. NEAL: Very well, your Honor, certainly the proper foundation has been laid. We can call all the people down. I will ask you one more question, sir.

THE WITNESS: Yes, sir.

BY MR. NEAL:

Q How many people do you have in your office at the Andrew Jackson Hotel?

A In my office?

Q Doing work at the Andrew Jackson Hotel?

22 - 6

MR. SCHIFFER: We object to the question, your Honor, it is not germane and competent.

THE COURT: Overruled.

THE WITNESS: The exact number of which office, sir? We have several offices.

BY MR. NEAL:

Q Well, the office involved in preparing records like this?

A That would be the front office.

Q Yes.

A Well, we have general cashier and assistant cashier. And the room clerk, mail clerk, and in adjacent one of the assistant managers is also there.

Q That is five, I believe, isn't it?

A Approximately.

Q Do they work under your supervision?

A Yes, sir.

MR. NEAL: Now, your Honor, I certainly submit this is quite different from General Motors that Mr. Schiffer pointed out. We submit we have laid the proper foundation.

THE COURT: Overrule the objection.

MR. NEAL: May the documents be admitted in evidence?

MR. HAGGERTY: Just a moment, your Honor, I would like an opportunity to question his witness about certain

marks that are on these bills if they were on there at the time they left the hotel.

MR. NEAL: Your Honor, that is part of my examination.

MR. HAGGERTY: Well, I think I am entitled to voir dire before they are admitted in evidence. If there has been an alteration on the exhibit I think I am entitled to know and I think I am entitled to know at this time.

MR. NEAL: May I examine the witness, your Honor?

MR. HAGGERTY: Well, I request a voir dire. You have offered them in evidence and this is the appropriate time for me to make my objection and ask for the right to conduct a voir dire, brief voir dire to find out.

THE COURT: I will allow you to do so, Mr. Haggerty.

EXAMINATION BY MR. HAGGERTY:

Q Referring to Exhibit No. 94, I will have the marshal hand this to you and ask you if at the top of the exhibit where there are four lines, just marks drawn through, one red, and three in pencil, if they are part of the records of the hotel and were they on there at the time this exhibit left the hotel?

A Yes.

Tk 22A

Q What do they indicate?

A This was on Tuesday of the week of October 22, four telephone calls were made from Room 620 and four telephone

calls were charged on that particular date, sir.

Q Now, I will ask you in reference--I give you Exhibit No. 95, or 99 through 107, and ask you to examine each of them in turn and explain if those marks at the top were on the hotel bill at the time it left the possession of the Andrew Jackson Hotel?

End Tk 22A
Tk 23 fls.

A Exhibit 107, yes, sir.

Q All right, sir.

A And may I explain it, sir?

Q Go right down the list, if you will, sir.

A That would represent two telephone calls, sir, and that is properly charged out here on the folio.

Q All right. Now, take the next exhibit in the order that you are working on.

A Yes, sir, those three marks were there when --

Q (Interposing) What exhibit number is it?

A This is Exhibit 106, sir.

Q All right, sir.

A And on each -- on Monday one telephone call was made, on Tuesday one telephone call, and on Wednesday one telephone call.

Q Now --

A (Interposing) And they were properly charged on the folio, sir.

Q As indicated by those lines drawn in at the top of the exhibit?

A Yes, sir.

Q All right. Now, take the next exhibit.

A No. 105.

Q All right, sir.

A We have two -- let me check for the charges there,

sir -- yes, sir, there were two telephone charges made and they were properly charged on the folio and on the other date on the other mark, sir, there's one call made on Thursday that failed to properly charge out. I am sorry for the error but there was one, apparently one call made, sir, that had been recorded by the cashier and the night auditor failed to pick it up during the night when he was transferring it to the folio.

Q By the way, does that happen often that the hotel loses money?

A No, sir, no, sir, Mr. Haggerty.

Q Now, let's have your next exhibit.

A All right, sir. Exhibit No. 104. Well, here again they charged one, they should have charged two, and on calls that were made on the 30th and they only charged one and they should have charged two on this one.

Q Well, do you indicate from your testimony --

THE COURT: (Interposing) May we just complete? Do you want to complete each one of those, Mr. Haggerty?

MR. HAGGERTY: Yes, your Honor.

THE COURT: All right.

Q (By Mr. Haggerty) Do you indicate from your testimony that there are any extra strokes on these exhibits?

A No, sir.

Q There is a shortage of strokes up to date, isn't

that true?

A They failed at times to pick them up, sir, on the charges at night and that happens, but not very often, but it does happen where they fail to charge the proper number of telephone calls made, that is, the local telephone calls.

Q All right. Mr. Womble, go on to the next exhibit.

A All right, sir. Yes, sir, now, this is Exhibit 103.

Q All right, sir.

A And on Tuesday of this particular week, sir, there were three telephone calls made and that is properly charged out, they are properly charged out, and then on Wednesday there was one telephone call and that one was properly charged out.

Q Are there any other marks up on the top of that card having to do with the telephone calls?

A No, sir, not at the top of the card.

Q If in examining the balance of the exhibits, if you see any marks other than these strokes indicating telephone calls on the respective dates, will you indicate?

A There are no other marks, sir, but these.

Q None on that exhibit?

A No, sir.

Q Now, will you examine the next exhibit and indicate

the number?

A All right, sir, on Exhibit, sir, 102.

Q Yes, sir.

A On Monday of that particular week there were two telephone calls made and they were properly charged out and on Tuesday of this week, sir, four telephone calls were made and they were properly charged and then on Wednesday one phone call was made, sir, and it was properly charged.

Q All right. Was there any additional marks up in that area?

A No, sir.

Q All right, sir. Now, the next one?

A This is Exhibit No. 101, sir. On Wednesday of this particular week, sir, one telephone call was made and properly charged and on Thursday one phone call was made and properly charged.

Q Any other additional marks up in that region on the card?

A Yes, sir, we have -- oh, yes, there is a change in the rate. The gentleman, sir, changed rooms and from the original rate it was changed to the proper rate on the change of the two rooms that he obtained, sir.

Q Two rooms?

A Yes, sir. Let me check that to be sure. Yes, sir, two rooms.

Q And what number is that exhibit?
A No. 101, sir.
Q 101?
A Yes, sir.
Q And is that indicated on the top of your copy that you are holding in your hand, Exhibit 101?
A Yes, sir, that is indicated up there. If I might clarify it, sir, the gentleman had one room and he changed to two rooms and they put the new rate close to the top of the margin that we use to properly record the telephone calls that were made and the figures there, sir, would represent the rate on the rooms.
Q All right, sir. Let's go to the next card.
A Right, sir.
Q And exhibit number what?
A No. 100, sir. On this folio, sir, they have properly charged all but one grouping and there again they missed one telephone call and they only charged for a single call instead of two, sir.
Q Go on to the next exhibit, if you will, please.
A This was No. 100.
Q Yes, sir.
A Right. This one is No. 99, sir.
Q Yes, sir.
A And these are recorded properly, sir. On Monday

two telephone calls were made; on Tuesday, four, on Wednesday, one; and then on Sunday, seven, sir, and they were properly recorded and those marks would indicate the number of telephone calls made, sir.

Q And are there any marks on the top of the card?

A No, sir.

Q Any extra marks or insignia?

A No, sir, not on the top of this folio, sir.

MR. HAGGERTY: All right. I think that concludes it, doesn't it?

MR. NEAL: May I continue to examine the witness, Mr. Haggerty?

THE COURT: Yes.

MR. SILETS: May I ask one or two questions about this?

MR. NEAL: If your Honor please --

MR. SILETS: (Interposing) May I ask one or two questions?

THE COURT: Let's go back to the usual regular order. You may ask on cross examination.

End 23
24 fls

MR. NEAL: May I continue, Your Honor?

THE COURT: Yes, let's go back to the regular order of proof, gentlemen.

MR. HAGGERTY: I hadn't finished.

MR.NEAL: He said he had finished, Your Honor.

THE COURT: All right.

BY MR. HAGGERTY:

Q The one that starts, the bill that starts November 4, I have the exhibit, it is Exhibit No. 100, the Exhibit No. 100, now I refer you to that exhibit and call your attention to November 4, which undoubtedly Monday, now, how many marks are there in the upper part where a track of local telephone calls are kept?

A Well, there were three, sir.

Q How many appear on the face of the bill?

A I didn't understand the question.

Q How many in the body of the charges?

A Yes, sir.

Q How many appear?

A On November 5th there was a charge of sixty cents.

Q No. I said November 4th.

A Well, they--, there again they are charging the telephone there in a different space, sir, than the normal procedure in charging. But in going over, sir, the number of telephone calls made charged with the exception of one.

Q Well, as a matter of fact, on Monday it show three marks, does it not?

A Yes, sir, that's right.

Q Is November 4th on a Monday, do you know?

A I do not know.

Q Well, we can tell right from here. November 4th is on a Sunday. Now, on Sunday it shows two telephone calls according to the heading, does it not? When actually there is only one charge for it?

A That is right, sir. Yes, sir.

Q Now go over to Monday, which would be November 5th.

A Yes, sir.

Q Now there are three telephone calls?

A That's right, sir. And three were charged.

Q Three were charged?

A That's right.

Q Now and so on, as to Tuesday, there are six charges. Right?

MR. NEAL: Your Honor, we object to going over and over there.

MR. HAGGERTY: I have a purpose in mind, Mr. Neal.

MR. NEAL: Your Honor, it has been almost an hour with my witness.

MR. HAGGERTY: I call to your attention--

A (Interposing) There were five, sir. There is a

tally there that would indicate to the night clerk that there were five calls made on that particular date, sir.

MR. HAGGERTY: No further questions.

MR. NEAL: I will just give you all of them, Mr. Womble--

BY MR. NEAL:

Q I will just give you all of them, Mr. Womble, now--

MR. HAGGERTY: Here is one, Mr. Neal.

BY MR. NEAL:

Q I think we can get Mr. Haggerty's point out of the way, you will note that there are certain stamps, United States of America versus James R. Hoffa, et al, those stamps are the stamps used by the clerk here in identifying the exhibits, you understand that?

A Yes, sir.

Q And you will find those on here, of course, your people didn't put them on there.

A No, sir.

Q But other than that, would you tell us whether there are any marks on all those exhibits that were not on there when they left your office?

MR. HAGGERTY: May it please the Court, a matter that I will take up, I may as well take it up there, I object to that stamp on there United States versus Hoffa, I think it is prejudicial and discriminatory other than having the

number of the case on it, I do not think it is proper to have a rubber stamp of that because these exhibits are shown to the jury.

THE COURT: Let's see what we are talking about. Overrule that objection. Merely an identification of the exhibit in the case.

BY MR. NEAL:

Q You understand my question, Mr. Womble, than those stamps put on here by Mr. Dale, the clerk of this court, are there any markings on there that were not on there when they left the hotel?

A Just one second. This one is O. K. Exhibit No. 101.

Exhibit No. 102.

Exhibit No. 103.

Exhibit No. 104.

No. 105.

No. 106.

No. 107.

No. 94.

Q I missed ome here, No. 99, I ask you to look at that one the same way.

A No. 99 is O. K., sir.

Q So all the markings on those hotel bills with the exception of the stamps put on here, were put on by your hotel

people. Is that correct?

A That is right.

Q I beg your pardon?

A That's right.

MR. NEAL: Your Honor, at this time I would like for the Court to instruct the jury that all the insinuations about mysterious markings and so forth be stricken from the record.

MR. BROWN: We object to that, if Your Honor please in the presence of this jury. That there has been any insinuation.

MR.NEAL: The jury can determine that, I suppose.

THE COURT: Let the jury pass upon it.

MR. BERKE: If Your Honor please, we think that is wholly uncalled for remark.

THE COURT: Disregard the argument of counsel and proceed.

BY MR. NEAL:

Q Now, these are received in evidence, I understand? Is that correct, sir? Your Honor, these were received in evidence?

THE COURT: Yes.

(Hotel records previously marked Exs. Nos. 94, 99, 101, 102, 103, 104, 105, 106, & 107 for identification were received in evidence.)

BY MR. NEAL:

Q Now, sir, I show you what has been marked for identification as Government Exhibit No. 139 and I will ask you if you recognize that.

A Yes, sir. This is a traffic sheet on local telephone calls being made from the various rooms in the hotel on October 29, 1962.

Q The first sheet is the only one I'm interested in. Mr. Womble, that first sheet is a record of the Andrew Jackson Hotel?

A Yes, sir.

Q Is it the record made in the regular course of the hotel's business?

A Yes, sir.

Q Is it the regular course of the hotel's business to make records like that?

A Yes, sir.

Q And are the entries thereon made at or about the time of the events involved?

A Yes, sir.

MR. NEAL: We offer that in evidence, Your Honor, the first page is all we are interested in.

MR. SCHIFFER: Same objection, Your Honor.

THE COURT: Remove it from the other pages then.

MR. NEAL: I didn't want to remove it out of the presence of defense counsel, but I will now.

MR. SCHIFFER: Object to the introduction of it in evidence at this time, same grounds, does not meet the--

THE COURT: (Interposing) Overrule the objection.

MR. NEAL: And I return the rest of the document back to the clerk.

THE COURT: Has that document been heretofore identified?

MR. NEAL: No, Your Honor, it is part of the records we turned over, however. Identified this one by number as Exhibit No. 139.

MR. SILETS: Are you offering this in evidence, Mr. Neal?

MR. NEAL: Yes, sir.

MR. SILETS: Can I ask the witness whether this is in the same condition it was when he delivered it to the government or if there are any extraneous marks on the document?

End 24 MR. SCHIFFER: May we see the exhibit please?

25 Fol.

MR. NEAL: Your Honor, in respect to that exhibit I think my co-counsel marked, made a pencil check.

MR. SILETS: Wait a minute, your Honor. If Mr. Neal wants to testify let him testify and I object to these asides and insinuations by the facial characterizations. We are entitled to try a lawsuit fairly and squarely. Now, if he wants to have asides and insinuations I don't think we are in the right spot.

THE COURT: Proceed, Mr. Neal.

MR. NEAL: All right, sir. Has this been received in evidence, your Honor, is there any question pending?

MR. SCHIFFER: Did the witness answer as to whether this was the same physical condition?

THE COURT: Ask the witness.

THE WITNESS: To the best of my knowledge, sir.

(The hotel record referred to above, previously marked Government's Exhibit No. 139 for identification, was received in evidence.)

BY MR. NEAL:

Q Just to make sure that there is no problem of interpretation here, let me show you Government's Exhibit 139 again, that is, the traffic sheet of the hotel telephone calls. Would you look at item or Number 26 on there and tell us what that says?

A Item No. 26?

Q Yes, sir.

A The telephone Cypress 7-9331, ticket number 26, room number 623.

Q What does that mean?

A It means --

MR. SILETS: (Interposing) I think the document should speak for itself, your Honor, and he is now going to interpret the document. I think that is for the jury to determine.

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, he can tell us what that is in the regular course of his business, you can't interpret that document, you don't know what it is.

MR. SCHIFFER: It hasn't been ascertained yet that he made these entries or that he is the custodian, how can he explain them?

BY MR. NEAL:

Q Are you able to tell us what those entries represent, sir, according to the records?

A Yes, sir, it means that --

Q (Interposing) Wait, see if His Honor will permit it.

MR. SCHIFFER: Renew the objection.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q All right. Would you tell us?

A It means the number he called out was made from Room No. 623 on that date.

Q What is the date?

A October 29th.

Q On October 29th a call was made from Room 623 to Cypress 7- --

MR. SILETS: (Interposing) I object to Mr. Neal --

THE COURT: (Interposing) Sustain the objection.

BY MR. NEAL:

Q Now, sir, according to Government Exhibit 99 would you tell us who had Room 623 on October 29th?

A Mr. E. G. Partin (spelling) P-a-r-t-i-n.

MR. NEAL: Thank you very much, sir. You may examine him.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Womble, when you had testified that -- am I pronouncing your name correctly?

A Yes, sir, that is correct.

Q When you testified that there were errors made in the billing, did you mean that there were some extra marks up here that were not -- extra marks at the top of the exhibit, of the document, which were not shown on the IBM or the cash register machine?

A The marks would indicate, sir, the number of tele-

phone calls that had been posted by the cashier during the day. Now, when the night auditor comes on duty they pick up all of the local telephone calls from those spaces that are shown, sir, and once in a while they will make an error in picking them up and they will miss one or two and then sometimes you -- they might pick up one or two.

Q But, Mr. Womble, if I gather your testimony correctly, you are assuming then that each of these marks were made by somebody in your office and then if that mark was not reflected by a cash register machine in the mechanical number?

A That's right, sir.

Q Then that was a mistake?

A That is right.

Q So you are assuming this fact, the truth that those marks are marks by your people?

A Yes, sir.

Q All right. But you don't know, you don't have any personal knowledge if in fact those marks were made by your people?

A Not positive, no, sir.

Q All right. Now, you testified -- may I have that last exhibit?

MR. SCHIFFER: 139.

Q 139, please. Sir, it may be that you didn't look

at this carefully. Will you look at 139 and see if you would know if all of the marks on that document were made by persons under your supervision and control?

Now, specifically I direct your attention to lines 26 and 30, I believe.

MR. ALEXANDER: That's right.

A To the best of my knowledge, sir, these markings were made by our employees at the hotel.

Q Now, on the side of lines 26 and 30 you see check marks, don't you?

A Yes, sir.

Q Now, do you know of your own knowledge whether those were made by your employees?

A I feel that they were not.

Q Now, you have no knowledge then whether they were in fact?

A That is right, sir.

Q As a matter of fact, you have no personal knowledge as to the truth or falsity of any of the entries on that document, personal knowledge?

A Not specifically, no, sir.

Q Now, on the date shown, I believe October 29th, that is a sheet representing calls made through the hotel on the 29th of October?

A Yes, sir.

Q 1962?

A Yes, sir.

Q Now, can you state for certain under oath, tell these people on the jury that the calls that were made and charged to Room 623 on those dates were made by a man named E. G. Partin?

A No, sir, I could not.

Q Anybody could have made those calls and charged it to that phone?

A Not anyone, sir, anyone who might have been in his room.

Q I see. Now, if there had been a government agent in the room he could have made them as well as Mr. Partin?

A Yes, sir.

Q Now, what if he made a phone call from the lobby and said, "Please charge -- I am a guest -- please charge it to 623," would it have been charged?

A Yes, sir.

Q And it would reflect it as having come from Room 623?

A That is right, yes, sir.

Q Now, had I been in the lobby or one of these people on the jury been in the lobby and picked up the phone and asked to call that particular number, Cypress 7-9331 and said, "Please charge it to my room, 623," would that record

disclose who in fact had charged it?

A Yes -- no, sir; no, sir.

Q It would not?

A No, sir, it would not.

Q It wouldn't disclose whether it was me or someone on the jury or Mr. Partin?

A That is right, yes, sir.

MR. SILETS: No further questions. There is just one other thing.

BY MR. SILETS:

Q Look at Exhibit 99. Now, that indicates, does it not, that the room was registered in the name of Mr. Partin on the 29th of October?

A Yes, sir.

Q Does it indicate that he was the one who actually occupied the room?

A Well, to the best of my knowledge, yes, sir.

Q Doesn't it indicate that he registered and he may have paid the bill but does not indicate who actually stayed in the room?

A Well, it's not likely, sir, but someone else could have used it.

Q All right. Now, I show you what has been marked as Exhibit 104 and direct your attention specifically to the signature card and ask you to turn it over and look at the

stamps on the card.

End 25
26 fls

A All right, sir.

Q Now, from the ordinary course of business by the Dinkler-Andrew Jackson Hotel, could you tell the jury what those stamps represent?

A Yes, sir. One stamp represents the time the guest arrived at the hotel.

Q What time did he arrive?

A At 3:30 A. M. on November 30th.

Q And what is the other stamp, what does the other stamp represent?

A And the other stamp indicates the time that he departed.

Q What time did he leave?

A November 30 at 6:51.

Q So he stayed a period of about three and a half hours.

A Approximately.

Q Now in the three and a half hours he made a phone call or at least a phone call was charged to his room?

A Yes, sir.

Q Could you tell us to whom the phone call was made? Could you pick it out? Is that a local or long distance call?

A No, sir, that is local.

Q Could you pick it out of here and tell us to whom, at least where the call was made to?

A Where it was made to, sir? It was a local call, sir.

Q Sir?

A It was a local telephone call.

Q Yes, isn't that what you can tell from this local traffic sheet?

A Yes, sir, if I can find it.

Q That would be on the 30th, I suppose.

MR. NEAL: If it be just the same with Mr. Silets, the government will stipulate--

THE WITNESS: (Interposing) Ibeg your pardon, sir?

MR. NEAL: Pardon me.

THE WITNESS: ALpine 4-9431.

BY MR. SILETS:

Q ALpine 4-94--, would you repeat it?

A 31.

Q Now, you know that that is the phone number of the Eastern Airlines, do you know that?

A That sounds familiar, yes, sir, but I'm not positive on it but it does sound familiar.

Q So, now, we tell from this record that the man came in at 3:30 and stayed until 6:30 approximately and made one phone call to the Eastern Airlines?

A To that number, sir, that I stated, and it does sound like the Eastern Airlines number.

Q Now, look--, there was only one call then on that day?

A That is right, sir.

Q Now, don't you see strokes?

A Yes, sir. That's correct.

Q Now you don't know whether those strokes were made by somebody else or by the hotel?

A I feel reasonable sure they were made by the hotel employee.

Q But you don't know?

A No, sir, not positively.

Q Now, in each case where there is a stamp on the back of the signature card, that one stamp represents the time in, the other represents the time out.

A Yes, sir.

Q Now, during this time in October, November, December, 1962, you had quite a lot of guests from the Teamsters staying at the Andrew Jackson Hotel?

A Yes, sir, we certainly did.

Q And weren't you aware that very often the Teamsters rented a room and various people stayed in the room in the hotel?

A On one or two occasions I do recall that, yes, sir.

Q It was not uncommon?

A No, sir, it was not.

Q And the fact that a room was registered in a particular name didn't mean that the man actually slept or

stayed in the room?

A Not particularly, no, sir.

MR. SILETS: Thank you, sir.

REDIRECT EXAMINATION

BY MR. NEAL:

Q That would mean, sir, would it not, apparently there were guests who came in and stayed and didn't register and stayed in these rooms that the Teamsters had?

MR. BERKE: We object to that.

MR. NEAL: May I finish my question, Mr. Berke?

MR. BERKE: When he got half way through, if Your Honor please, it was bad, and I'm going to object to it.

THE COURT: Sustain the objection.

BY MR. NEAL:

Q Well, state whether or not sir, would that mean--

A (Interposing) Would you ask the question over, sir?

Q Yes, sir, kind of confused myself. Mr. Silets asked you that sometimes the Teamsters had rooms there and some one would come in and stay in there, wasn't that the question he asked?

A Yes, sir.

Q And you said yes, that happened.

A Well, that I presume it happened.

Q Well, you presume?

A Yes, sir, that is right.

Q Along the same presumption then that is good enough for me.

A Yes, sir.

Q Would that person who stayed in that room, stayed in the Teamsters room, didn't register himself, or would he not?

A Well, he would register for himself, I presume, sir.

Q If he stayed in the room already registered to someone else?

A No, sir.

Q Pardon me?

A If the room was registered it wouldn't be necessary to re-register again.

Q Then under the question Mr. Silets asked, there would be no registration for that man?

A That is right.

MR. NEAL: All right.

THE COURT: All right.

MR. SILETS: Nothing further.

MR. NEAL: Thank you, Mr. Womble. We recall now Mr. Kitchen, the man who was here at the luncheon recess.

(Witness Womble excused.)

THE COURT: Does anyone have Exhibit No. 122?

MR. BROWN: Your Honor, that is the one we were looking for. We will find it by the recess. I put it in for identification and I will give this copy to the clerk and stipulate it is the same one. I believe that was a statement.

MR. BERKE: I have acopy of that. We can substitute it if we can't find the original.

MR.BROWN: If we can't find the one that was stamped, we will stipulate this is an exact copy of the one that was put in.

THE COURT: All right, let's try to find the original, gentlemen.

NILES E. KITCHEN,

a witness recalled at the instance of the United States of America, having previously been duly sworn, was examined and testified as follows:

FURTHER REDIRECT EXAMINATION

BY MR. NEAL:

Q Mr. Kitchen, you were on the stand at the recess for dinner, weren't you?

A Yes, sir.

Q Lunch?

A Yes, sir.

Q Now, sir, I believe we had received in evidence Government's Exhibits No. 134 through 138. All right, sir, I am now handing you No. 138, would you tell me from the record

who had telephone number in Nashville, on October 29, 1962, who had telephone number CYpress 7-9331?

A This service was in effect at that time and still is in the name of William J. Wade, Jr., professional football player, with the Chicago Bears, as a quarterback, this is the credit card and service record.

Q Thank you, very much, sir.

MR. NEAL: I would like to hand to the jury now Government Exhibits 99, 139, and what is the number of that, sir?

THE WITNESS: I believe you said this was No. 138? 138, yes, sir.

MR. NEAL: Would you put that right behind that one and hand it to the ladies and members of the jury.

BY MR. NEAL:

Q Now, sir, we also are handing to the jury--, guess we better wait until they get through. I ask to hand that to the jury, Government Exhibit No. 134 to be compared with the registration card just handed to the jury. Registration--

MR. SILETS: Is that in evidence, Your Honor? I think we are still debating that point.

MR. NEAL: Received in evidence.

THE COURT: EXHIBIT No. 134.

MR. HAGGERTY: Identification up to the present time.

MR. NEAL: Your Honor, that was received in evidence, I asked specifically about those calls. Your Honor overruled all objections and called them back in.

MR. HAGGERTY: And we're mistaken, I thought Your Honor had admitted it for identification only.

THE COURT: Just a moment, gentlemen. As soon as I find out my notes on it.

End 26

Tk 27 fol.

THE COURT: 134 through 138 were admitted.

MR. NEAL: Now, would you show that, together with the registration card that is in process now?

BY MR. NEAL:

Q Now, sir, showing you Government's Exhibits Nos. 135, 136 and 137, would you take them in order, 135 first, and tell us what the record shows in respect to that?

A Exhibit 135 is a call placed to Huntington, West Virginia, on November 27, 1962. The call was placed from 255-2121.

Q And that is the Andrew Jackson Hotel?

A Yes, sir. And it was billed to Room 918 and it was a person to person call to Nicholas Tweel from a Mr. Partin.

Now, this number originally called was 523-0150, however, when that number was reached they referred the party to JA 5-8125. Let's see, the duration of that call was three minutes and 40 seconds and it was placed at 3:40 P.M.

Q 3:40 P.M.?

A Yes, sir.

Q That was November the 27th?

A Yes, sir, 1962.

Q Now, according to that record, that was a person to person call from Partin to Tweel that was completed?

MR. SCHIFFER: Object to that. There's no evidence that Mr. Partin made this call on this record here.

MR. NEAL: There is a record.

THE WITNESS: Our record indicates it was placed by Mr. Partin to Mr. Tweel.

MR. SCHIFFER: Well, insofar as the record on this card on its face may the jury be instructed, your Honor, there is no evidence as to the truth of the event that Mr. Partin made any call to Mr. Tweel? It is simply what a record of a telephone company indicates.

MR. NEAL: Your Honor, business records--

THE COURT: (Interposing) Gentlemen.

MR. NEAL: Business records are admissible.

MR. SCHIFFER: Not for that purpose.

THE COURT: It is up to the jury to weigh the evidence.

MR. SCHIFFER: Your Honor, may we have a specific instruction, please, to the jury that whatever appears on this card is not in itself evidence as to the truth or falsity of the fact as to whether or not Mr. Partin called Mr. Tweel, that this is simply a record which on the face of the telephone company simply has certain information but that the jury is not to infer from this information that Mr. Partin made the call to Mr. Tweel?

MR. HOOKER: Oh, yes.

MR. SCHIFFER: It's not introduced for that purpose, it cannot be.

MR. NEAL: It is introduced for that purpose.

THE COURT: Overruled. It is up to the jury.

MR. SCHIFFER: We certainly except to your Honor's ruling.

THE COURT: It is up to the jury to pass on the evidence.

THE WITNESS: Sir, if you would like me to explain this, this call was placed person to person and was billed as such and is not a disputed call, it was charged and billed.

MR. SCHIFFER: Objected to.

THE WITNESS: As person to person.

MR. SCHIFFER: Objected to, whether it's disputed or paid, this witness now is volunteering information that has nothing whatsoever to do with his testimony in chief, he cannot testify to that.

THE WITNESS: Sir, I am reflecting what is in the record.

MR. SCHIFFER: Well, let's not argue about it.

THE COURT: Proceed.

MR. SCHIFFER: I make that objection, I should like a ruling of the Court.

THE COURT: Disregard the statement of the

witness, it was not in response to a question.

MR. SCHIFFER: I am glad Mr. Neal is enjoying himself. When he finishes his laughter I hope he continues with the progress of the trial so we can go home.

THE COURT: Proceed.

MR. NEAL: Mr. Schiffer, if I must apologize for laughing I apologize.

BY MR. NEAL:

Q Excuse me. Would you give us the rest of the information?

A I believe on 135 we completed the information. As I say, it was referred from the number called originally from 523-0150 and it was referred to JA 5-8125.

Q All right, sir. And that was at 3:40 P.M., Central Standard Time?

A Yes, sir.

Q November the 27th?

A Yes, sir.

Q And how long did it last?

A Conversation time was three minutes and forty seconds.

Q Now, sir, does it tell you from what room in the Andrew Jackson that call was made?

A Yes, sir, from Room 918.

MR. NEAL: 918. I would ask that that be passed

with what--is that Government's Exhibit--

THE WITNESS: (Interposing) 135.

MR. NEAL: 135 be passed in conjunction with 103.

MR. SCHIFFER: Your Honor, I ask on behalf of Mr. Parks again that the jury be instructed at this time that what appears on this card is simply a record of a telephone company and they are not to accept that information as evidence in this case insofar as the truth of anything reflected on the face of that card.

THE COURT: Overrule that request.

MR. SCHIFFER: Take an exception, your Honor.

MR. NEAL: I'd also like to hand to the jury in conjunction with the Government's Exhibits 56, 57--

MR. SILETS: (Interposing) Your Honor, I am going to object to the constant passing. That has been passed.

MR. ALEXANDER: We object.

MR. SILETS: Once before.

MR. NEAL: 55 and 71.

THE COURT: Overrule the objections.

MR. BRANSTETTER: May it please the Court, may we see what is being passed when they get through with it?

BY MR. NEAL:

Q Now, sir, I will ask you to go to the next exhibit, sir.

MR. SCHIFFER: May we see 56, 57 and 71 before it's handed to the jury, your Honor, we want to see the relationship that Mr. Neal speaks of in connection with 135.

THE COURT: All right.

MR. NEAL: May it please the Court, it's in evidence. Is the jury entitled to see it?

MR. SCHIFFER: We want to know what he is introducing, we want to see the relationship to the specific fact in issue at this time.

MR. NEAL: Your Honor, it has been introduced.

MR. SCHIFFER: We want to follow it.

THE COURT: They can examine it in less time than we can argue about it, gentlemen.

MR. NEAL: All right.

THE COURT: Let them examine it. We will just take time out.

MR. SILETS: That is the whole point. It has been introduced and has been seen. This constant repetition of showing to the jury has only one intent, to heighten whatever importance Mr. Neil wants to attribute to it.

THE COURT: Overrule the request.

MR. NEAL: May I continue, your Honor, in order--

MR. SCHIFFER: (Interposing) Your Honor, may we be favored with a look at No. 135 while we see these four to see the relationship Mr. Neal is trying to attach to the

exhibits?

THE COURT: All right. Where is Exhibit 135?

MR. NEAL: Shall I continue or--

THE COURT: (Interposing) Well, wait a moment.

MR. NEAL: All right. Are they all back to the jury now? I would like for the jury to see them.

THE COURT: All right. May we proceed?

BY MR. NEAL:

Q Now, sir, would you go to Government's Exhibit No. 136 and tell us what that is?

A This is a record of a long distance call placed to New York City, New York, on 12-4-1962.

Q That's December 4, 1962?

A Yes, sir.

Q All right, sir.

A It was placed from 255-2121.

Q That's the Andrew Jackson Hotel in Nashville?

A Yes, sir, to 943-2906 from a Mr. Partin to Nicholas Tweel, it was billed to Room 932.

End Tk 27
27A fls.

Q In the Andrew Jackson?

A In the Andrew Jackson Hotel.

Q That's person-to-person from Mr. Partin to Mr. Tweel?

A Yes, sir.

Q All right, sir. Would you give us --

THE COURT: (Interposing) What was the room number?

THE WITNESS: 932, sir. The time of the call --

MR. ALEXANDER: (Interposing) If it please the Court, I am going to object to this because the indictment covers the month of November, on or about November. We are now getting into telephone calls in December which could have no effect at all on this indictment which charges November of 1962. This is after the indictment and I move that it be excluded.

THE COURT: Ladies and gentlemen, it would be considered if at all by the jury only as to any defendant which it may or may not refer and would be considered only as it might or might not reflect upon any motive or intent of the defendant with respect to the matter with which he is charged in the indictment.

MR. BRANSTETTER: May it please the Court, on behalf of the Defendant Campbell I request a specific instruction that these exhibits that have been passed to the jury and

the ones that have been handed up to this witness have no relationship whatsoever to the Defendant Campbell on their face as a matter of law.

End 27a
28 fls

THE COURT: Well, certainly they will be considered only as to -- it would not be considered as to any party defendant to whom they do not relate on their face.

MR. SILETS: Your Honor, has the Court ruled on the passing of those documents? Are they being passed now to the jury?

THE COURT: The jury is being permitted to examine the exhibits now which have been admitted.

MR. SILETS: Your Honor, I didn't hear the ruling that they would be passed to the jury. It appears that Exhibit No. 135 relates to a call allegedly made with a Nicholas Tweel, whereas the other documents do not refer to Mr. Nicholas Tweel. Now, Mr. Neal, by passing them to the jury wants to relate these documents one with the other. I think as a matter for argument not for passing amongst the jury.

MR. NEAL: Testimony has been calls from Mr. Dorfman to Mr. Tweel on October 27th, one following the other.

MR. SILETS: Your Honor, this is argument.

THE COURT: Yes, sustain the objection to argument. The jury may consider the exhibits for whatever they may reflect. It will be up to the jury to decide what they reflect in that respect and what weight, if any, they should be given.

MR. SILETS: Your Honor, my point is when he pulls several documents out of all the exhibits and puts them all together and gives them to the jury he is at that time verbal-

izing argument, he is picturing it with these documents. He is arguing, trying to draw inference with these facts from the jury by handing them to them at the same time.

That is my entire point, that is in fact arguing to the jury by showing them documents which may be similar in time and he wants to draw inference by virtue of that. That is for his final argument.

THE COURT: Overrule the objection.

MR. ALEXANDER: If your Honor please, he has even passed one dealing with Dallas Hall which was introduced some two weeks ago.

MR. NEAL: Yes, sir, that was the call from Mr. Tweel to Mr. Hall following the other calls.

MR. SCHIFFER: I object to that comment on the part of Mr. Neal. He is giving testimony. That is a matter of testimony and if your Honor please I move it be stricken from the record.

MR. GRADY: If your Honor please, I would like on behalf of Mr. Tweel, object to Mr. Neal, he is introducing telephone calls that he can draw some sequence from in December. Your Honor instructed the jury to use for whatever purpose they might find fitting after your Honor's instructions. We would like, we have no objection to that, we are not objecting to that, but we would like for him not to withdraw certain calls within their complete custody and knowledge and we are

sure that there is at least one call after this trial terminated in Nashville, and we feel there is no inference to be drawn from these calls and if he puts them all in that will be perfectly obvious to the jury and we have no objection. But we have objection to him taking one out and leaving one in. That is our objection.

MR. NEAL: Well, we will turn over all records we have got with respect to phone calls.

MR. BRANSTETTER: May it please the Court, counsel has insisted from time to time throughout this day that he would turn over records. They have yet not turned them over. So let's don't be making these statements, may it please the Court, to the jury. They haven't been turned over yet.

MR. NEAL: May it please the Court, what are all these things?

THE COURT: Gentlemen, gentlemen, let's proceed with the trial of this lawsuit.

MR. NEAL: Your Honor, telephone calls that they say --

THE COURT: (Interposing) Well, Mr. Neal, proceed.

MR. NEAL: I beg your pardon.

BY MR. NEAL:

Q Now, the next exhibit? You were still with that exhibit, would you give us the time of the call from Partin to Tweel?

A Again the time on the call was 3:53 p.m. Length of the call was 9 minutes and 10 seconds.

Q 9 minutes and 10 seconds?

A Yes, sir.

Q All right, sir, I believe that was from Partin to Tweel in New York?

A Yes, sir.

MR. BRANSTETTER: May it please the Court, --

MR. SILETS: (Interposing) Your Honor, he is characterizing this call. All this man is doing is reading names. Now, Mr. Neal knows that what he is trying to inject to this jury is in fact the individual named therein were the ones who made the calls. He is not competent to testify about that.

THE COURT: Well, disregard the argument of counsel. Statements of counsel. Listen to the questions.

MR. ALEXANDER: May it please the Court, your Honor, do I understand your Honor's ruling to be that this evidence which is dated December 3rd is being admitted against my client who is charged with an act that occurred in the month of November 1962?

THE COURT: I have given instructions to the jury upon that just a few moments ago which I believe to be the correct and appropriate instructions.

MR. ALEXANDER: Then may we have all of the calls

in December which will show the calls after the case was tried in Nashville?

MR. NEAL: May it please the Court, we have put in here now all the calls on October 31. All the calls on November 27th, the calls on December 4th.

THE COURT: Gentlemen, let's proceed. The parties can present their own case as they think it should be presented.

BY MR. NEAL:

Q All right, sir, if you have given us all the information on Government Exhibit No. 136?

A 136, yes, sir.

MR. ALEXANDER: I didn't get the length of that call.

THE WITNESS: 9 minutes and 10 seconds.

BY MR. NEAL:

Q Now, I hand in Government Exhibit No. 105 and 136 to the jury. Now, sir, you have Government's Exhibit what now?

A 137.

Q All right, sir, would you tell us what Government Exhibit No. 137 is?

A This was a long-distance call placed to New York City also on 12-4. That is December 4th, 1962. This was placed from a pay station to be billed to Nashville, AL 5-2121, Room 932. It was person-to-person call. From a Mr. Partin to Nicholas Tweel.

Q And where was the call, what city was the call to, sir, Nicholas J. Tweel?

End 28
28a fls

A New York City, telephone number 246-7700.

Q Seventy-seven hundred?
A Yes, sir.
Q That was a pay phone?
A From a pay phone to be billed to the ALpine 5- number that I gave you.
Q That is the Andrew Jackson Hotel?
A Yes, sir.
Q To be billed to what room in the Andrew Jackson hotel?
A Room 932.
Q 932?
A Yes, sir.
Q What was the time of that call, Central Standard Time?
A That was about--
Q 7:03 P. M?
A Yes, sir, the bubble is here. 7:30 P. M. The length of the call was approximately 8 minutes and 24 seconds.
Q Now, I ask that--, is that all the information with respect to that call, sir?
A Yes, sir.
Q Would that be passed to the jury together with the hotel registration card.

MR. BRANSTETTER: May it please the Court, can we have a recess at this time?

THE COURT: All right. Yes, let's take--, before we recess, let's be sure the--, let the jury examine the documents they now have. And then we will recess. Get all the exhibits accounted for. All right, ladies and gentlemen, have you had an opportunity--, the officer will return the exhibits. Let's be in recess for ten minutes.

(Thereupon, at 3:10 o'clock p. m. court was in recess.)

End 28A

29 fol.

MR. NEAL: You may examine.

THE COURT: Have you completed your direct examination?

MR. NEAL: Yes, Your Honor.

THE COURT: All right. Is there any cross examination of the witness?

MR. BROWN: None for the Defendant King.

THE COURT: Very well. Call the next witness.

MR. ALEXANDER: Just a minute, your Honor.

MR. SILETS: I do have just one question, I think.

RECROSS EXAMINATION

BY MR. SILETS:

Q I believe Mr. Kitchen, is it?

A Yes, sir.

Q That you said that one call was made from a pay booth and then charged to the hotel?

A Yes, sir, that is correct.

Q Well, when that is done does the caller have to do anything to identify who he is or could anybody do that, just say charge it to a hotel?

A Well, now, the normal procedure, would you like me to explain that?

Q What is the normal procedure?

A The normal procedure is that in placing the call the subscriber or the person placing the call would indicate

to the operator, "I would like to bill this to my room at the hotel."

Now, in this case I don't recall the room number at the time, or at least I don't at the present, the operator will then verify that this party is registered at that hotel.

Q You mean that a person with that name is registered at that room?

A Yes, sir, that is correct.

Q But there is no other identification required?

A Only the verbal.

Q For example?

A Yes.

Q If you were staying at the Read House here and I know what room you are in I could call my home in Chicago and say, "Charge it to Niles Kitchen, I am at Room 823 at the Read House," and there would be no way to ascertain whether this was true or not, whether I was Niles Kitchen, is that right?

A Someone there would have to accept that charge at that room, sir.

Q You mean somebody, you mean the operator at the hotel?

A Would have to verify it, yes, sir.

Q That Niles Kitchen is in that particular room?

A Yes, sir.

Q But she doesn't know that I am Harvey Silets and not Niles Kitchen, isn't that right?

A Yes, sir.

THE COURT: All right. Any further examination? If not, you may be excused.

MR. GRADY: Yes, your Honor.

THE COURT: Excuse me.

MR. GRADY: We have one or two questions.

EXAMINATION BY MR. GRADY:

Q The records, sir, that you have testified about that were introduced in exhibits, were all those all the records that you were asked to bring?

A Those were subpoenaed, sir. I wasn't asked to bring them, sir.

Q Well, is that all of them?

A Yes, sir.

Q Just the ones you testified about you were asked to pick out certain records and bring them?

A Those records were subpoenaed, yes, sir.

Q Perhaps I don't make myself clear, sir. Were you asked to pick out certain calls and bring them, the records that were introduced today to your testimony, is that all of the records you had subpoenaed by the government?

A Yes, sir.

Q That's all of them. In other words, who picked

out these particular calls, did the subpoena call for particular calls?

A I don't know exactly how the subpoena read, no, sir, and I am certain that there were not specific calls selected but I don't know specifically.

Q How did you know what to bring?

A I beg your pardon, sir?

Q Did you bring these things?

A The records of the hotel were subpoenaed, sir.

Q Oh, I see. And you were just asked about certain calls?

A The ones that I testified on, yes, sir.

Q Of course, you are not trying to testify that the calls you testified--they were just a few out of many hundred, weren't they?

A Of the hotel, yes, sir.

MR. GRADY: Yes, sir.

MR. NEAL: Thank you.

(Witness excused.)

MR. NEAL: Call Mr. Gallaspy.

End Tk 29
Tk 30 fls.

THE CLERK: Raise your right hand, please. Do you solemnly swear that the evidence you shall give in this case will be the truth, whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Have a seat.

CECIL MACK GALLASPY,

a witness called at the instance of the United States of America, having first been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. NEAL:

Q Would you give us your full name, Mr. Gallaspy?

A Cecil Mack Gallaspy.

Q Spell the last name.

A (Spelling) G-a-l-l-a-s-p-y.

Q Gallaspy?

A Yes, sir.

Q Where do you live, Mr. Gallaspy?

A Baton Rouge, Louisiana.

Q By whom are you employed, sir?

A Southern Bell Telephone and Telegraph Company.

Q Southern Bell Telephone and Telegraph Company of Baton Rouge?

A Right.

Q Louisiana?

A Yes, sir.

Q How long have you been employed by the Telephone Company there, sir?

A Fourteen years. In Baton Rouge?

Q Yes, sir.

A Nineteen months.

Q Nineteen months?

A Yes, sir.

Q How long have you been employed by the telephone company as such?

A Fourteen years.

Q Are you custodian of the records of your company, sir?

A Yes, sir.

Q What is your position with the company, Mr. Gallaspy?

A District Commercial Supervisor.

Q District Commercial Supervisor?

A Yes, sir.

MR. NEAL: I ask that these records be marked for identification as the next government exhibit.

THE CLERK: Your Honor, there are three of them. No. 140, No. 141, No. 142.

(The telephone company records referred to above were marked Government Exhibits Nos. 140, 141, & 142 for identification only.)

BY MR. NEAL:

Q Now, sir, handing you what has been marked Government's Exhibit No. 140, No. 141 and No. 142, I ask you if you recognize those documents?

A Yes, sir, these are records that we normally use in the course of our business.

Q Are they records of the Southern Bell Telephone and Telegraph Company at Baton Rouge, Louisiana?

A Yes, sir.

Q Are those records of your telephone company made in the regular course of business?

A Yes, sir.

Q And is it the regular course of your company's business to make those records?

A Yes, sir.

Q And to make the entries therein at or about the time of the events described?

A Yes, sir.

MR. NEAL: We offer them in evidence.

MR. ALEXANDER: May we see them?

MR. NEAL: Oh, yes, and I hand them to counsel for inspection.

E[illegible] 30
3[illegible] fol.

MR. NEAL: May they be received in evidence?

THE COURT: Yes.

(The telephone company records previously marked for identification as Government's Exhibits Nos. 140, 141, & 142 were received in evidence.)

BY MR. NEAL:

Q I am handing you Government's Exhibit Nos. 141 and 142. Would you tell us what they are, sir?

A Yes, sir, these are the forms that we refer to as a form U2 which is a record of customer service.

Q Do they reflect the numbers of a certain organization in 1962?

A I am sorry, I didn't hear the question.

Q Do these records reflect the telephone numbers of a certain organization during the year 1962?

A That is correct, sir.

Q What is the name of the organization?

A International Brotherhood of Teamsters, Chaffeurs, Warehousemen and Helpers, Local Union No. 5.

Q Local Union No. 5 of your city, Baton Rouge?

A Of Baton Rouge, yes, sir.

Q Of Baton Rouge, Louisiana;

A Yes, sir.

Q On what telephone numbers did the Local Union No. 5, Baton Rouge, have in 1962?

A This record indicates WAlnut 4-1757 and WAlnut

MR. NEAL: May they be received in evidence?

THE COURT: Yes.

(The telephone company records previously marked for identification as Government's Exhibits Nos. 140, 141, & 142 were received in evidence.)

BY MR. NEAL:

Q I am handing you Government's Exhibit Nos. 141 and 142. Would you tell us what they are, sir?

A Yes, sir, these are the forms that we refer to as a form U2 which is a record of customer service.

Q Do they reflect the numbers of a certain organization in 1962?

A I am sorry, I didn't hear the question.

Q Do these records reflect the telephone numbers of a certain organization during the year 1962?

A That is correct, sir.

Q What is the name of the organization?

A International Brotherhood of Teamsters, Chaffeurs, Warehousemen and Helpers, Local Union No. 5.

Q Local Union No. 5 of your city, Baton Rouge?

A Of Baton Rouge, yes, sir.

Q Of Baton Rouge, Louisiana:

A Yes, sir.

Q On what telephone numbers did the Local Union No. 5, Baton Rouge, have in 1962?

A This record indicates WAlnut 4-1757 and WAlnut

4-3886.

Q WAlnut 4-1757 and WAlnut 4--

A (Interposing) 3886.

Q 3886?

A Yes, sir.

Q Now, WAlnut 4 is the same as 924, isn't it, sir?

A That is correct.

Q So it could also be 924?

A That's correct.

Q 924-1757, 924-1757?

A Yes, sir.

Q And 924-3886, is that correct?

A Yes, sir.

Q All right, sir. Now, sir, I show you government's Exhibit No. 140 and ask you to tell us what that is.

A This is what we commonly refer to as a toll ticket.

Q All right, sir. In our terms what does that show, the record?

A This is a record prepared by a long distance operator which is used for billing purposes for billing of long distance service.

Q Well, what is it, what else, what does it show?

A This particular ticket?

Q Yes, sir.

A This ticket shows a call was placed from Baton

Rouge, Louisiana, to Huntington, West Virginia on 11-30.

Q That's what, November 30th?

A Yes, sir.

Q What year?

A 1962.

Q November 30th, 1962, from Baton Rouge to Huntington, West Virginia?

A That's correct.

Q To any particular person in Huntington, West Virginia?

A It was a person-to-person call to Mr. Nicholas Tweel, the record shows.

Q Now, from what number in Baton Rouge?

A 926-1757.

Q May I see the exhibit? I will ask you to look at that again and see if that is 924-1757.

A Yes, sir, I'm sorry.

Q That's a call on November 30th, 1962, from 924-1757 to Nicholas Tweel in Huntington, West Virginia?

A That is correct, sir.

Q Now, with respect to the other card, sir, 924-1757 was the telephone of Local Uninn 5 of the Teamsters at Baton Rouge, Louisiana?

A Yes, sir.

Q All right, sir. Now,tell us what time that call

placed and the duration of the call, sir.

A The call was placed at about 4 o'clock, approximately 4 o'clock.

Q All right, sir.

A And lasted approximately--

Q (Interposing) A. M. or P. M?

A P. M., sir.

Q All right, sir.

A Lasted approximately four minutes 58 seconds, 59 seconds.

Q That's approximately on both of them?

A Yes, sir.

Q All right, sir. Now, it was Nicholas Tweel in Huntington, West Virginia, at what number, sir?

MR. HAGGERTY: Wait a minute. Let him read the card.

THE COURT: Sustained.

MR. SILETS: May Mr. Neal be instructed not to keep repeating over and over each fact.

THE COURT: All right.

MR. NEAL: Your Honor, I am trying to make it--

THE COURT: (Interposing) Don't repeat.

End 31
Tk 32 fol.

Q What number was it to?

A The two numbers is Area Code 304 which is West Virginia area code. 525-8125.

Q All right, sir, and you did testify that was person to person, I believe?

A Yes, sir.

Q And you gave the person? Without giving it again, did you testify as to the person?

A Yes, sir.

Q That was November 30, 1962?

A That is correct.

Q Now, Baton Rouge, Louisiana, in 1962 was on Central Standard Time, I believe, was it not?

A Yes, sir.

MR. NEAL: All these have been admitted, your Honor, and we would like to pass two of them to the jury and I want to reserve one of them for the time being.

MR. SILETS: May we have the same objection, your Honor?

THE COURT: Yes. Yes.

MR. SCHIFFER: May we request on behalf of Mr. Parks, the same instructions to the jury, your Honor, with reference to what this indicates as to the value as evidence?

THE COURT: Yes, consider it for the jury as to what extent --

MR. NEAL: (Interposing) Passing Exhibit 140 and 142 to the jury. You may examine.

MR. BRANSTETTER: I didn't understand; the Court going to instruct the jury?

THE COURT: I said they will be considered by the jury and given such weight by the jury as the jury might think that it is up to the jury to decide what, if any, weight the exhibits would have.

MR. BRANSTETTER: May it please the Court, I want a specific instruction that this evidence that has been read by this witness has no relationship to the Defendant Campbell.

THE COURT: It would not be considered as to any defendant to whom they do not purport to or relate.

MR. SCHIFFER: Point of information, your Honor. Which exhibit is being shown to the jury and which one being reserved by Mr. Neal at this time?

MR. NEAL: Not being reserved. I thought I said 140 and 142.

MR. SCHIFFER: According to my notes, 141 has not been identified by the witness.

THE COURT: Sustain that objection. 142 has not been identified.

MR. SCHIFFER: I object to that going to the jury.

MR. NEAL: I beg your pardon. May I have it back?

BY MR. NEAL:

Q I show you Exhibit No. 142 then. I was under the impression you had identified that. Was is Exhibit No. 142, sir, Government Exhibit No. 142?

A It is a form U-2 which is a record of customer service. Listed for International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Local Union No. 5, telephone number shown is WA 4-1757.

Q And that is also 924-1757, I believe, is that right?

A Yes, sir.

Q And that was the telephone number, one of the telephone numbers of Local Union No. 5, Baton Rouge, Louisiana, for the year 1962?

A Yes, sir.

Q All right, sir, now may we pass to the jury these?

MR. SCHIFFER: May I inquire, your Honor, I thought that Exhibit No. 141 showed this very same number. Now this No. 142 now it has been indicated by this witness is the same number. Are there two records, duplicate records of the same telephone number now, your Honor?

BY MR. NEAL:

Q Let me show the witness, 141, I think we can clear that up. Does Government Exhibit No. 141 show additional number, Teamsters Local Union No. 5, Baton Rouge, Louisiana, for the year 1962?

A It does, sir.

Q What is that number?

A WA 4-3886.

Q That is also 924-3886, is it not?

A That is correct.

Q 924-3886?

A Yes, sir.

Q Now these were the two numbers held by International Teamsters Local Union No. 5, Baton Rouge, Louisiana, for the year 1962. Is that correct?

A That's correct, sir.

MR. NEAL: All right, sir.

MR. SCHIFFER: Am I correct that Exhibit No. 141 also referred to WA 4-1757? In other words, my query is, is Exhibit No. 142 a duplicate of Exhibit No. 141 insofar as the first telephone number is concerned?

BY MR. NEAL:

Q Mr. Gallaspy, Exhibit No. 142 shows Local Union No. 5, Baton Rouge, Louisiana, during the year 1962 had the telephone number 924-1757? Or WA 4-1757? Is that correct?

A Yes, sir.

Q Government Exhibit No. 141 shows that Local Union No. 5, Baton Rouge, Louisiana, also had the telephone number 924-3886 or WA 4-3886 during the year 1962, is that correct?

A Yes, sir.

Q These are not duplicates in any way then, is that correct?

A No, sir.

MR. SCHIFFER: Wasn't this witness' testimony that Exhibit No. 141 showed two numbers, WA 4-1757? And WA 4-3886? And isn't it a fact that Exhibit No. 141 duplicates No. 142 with the same number, WA 4-1757? That is what we are trying to know.

THE COURT: I believe if you desire to examine further on that you may cross examine.

BY MR. NEAL:

Q Is what he said the fact or not the fact?

A No, sir, they are separate records of two separate telephone numbers.

Q Both have Local Union No. 5 for the year 1962?

A That is correct.

MR. NEAL: We would like to pass Exhibit No. 141 now, which is the telephone number of Local Union No. 5, 924-1757 or WA 4-1757. We have no further questions, your Honor.

THE COURT: Any cross examination of this witness?

MR. SCHIFFER: If we may just see the exhibits to clarify this one point, your Honor?

THE COURT: Yes, sir.

MR. SCHIFFER: Just No. 141, if we may look at it a moment, please?

MR. NEAL: Got one more copy.

MR. SCHIFFER: Thank you.

CROSS EXAMINATION

BY MR. SCHIFFER:

Q Mr. Gallaspy, were you subpoenaed to bring any other records to court besides these?

A No, sir, I was not.

Q Did you ever appear before the Grand Jury?

A No, sir.

Q Just these three documents were all you were asked to bring?

A I did not bring these documents with me, sir. They had previously been subpoenaed.

Q When were they subpoenaed?

A In March 1963.

Q In March 1963?

A Yes, sir.

End 32
32a fls

Q And were there any other documents appeared with these three to your knowledge?

A Yes, sir, there were undetermined amount of tickets, toll tickets.

Q And they related to these same phone numbers?

A Yes, sir.

Q May we call upon the government to see the other phone calls, see the other tickets?

MR. NEAL: Your Honor, Your Honor, we've had understanding that we're going to turn these over. Now, the Court, we have just gone over this out of the presence of the jury.

THE COURT: Included that in the instructions of the Court at noon.

MR. NEAL: Your Honor--

MR. BRANSTETTER: (Interposing) Could I ask just one question?

CROSS EXAMINATION

BY MR. BRNSTETTER:

Q Were you asked to bring in telephone calls of November 14 through 16, from this, from either of these two numbers assigned to Local Union No. 5 or were they subpoenaed?

A For this year? Or 19--

Q (Interposing) 1962.

A No, sir, I was not asked to bring any. I do not

know if they were subpoenaed. I cannot answer you.

Q Do you know whether or not all the telephone records from Local Union No. 5 for the period of October, November and December were subpoenaed by the government in March, 1963?

A I cannot recall whether all were.

Q Have you seen the grouping of the telephone records since you came here?

A No, sir.

End 32A

Tk 33 fol.

Q Did you see them when they were taken out of the office of the telephone company?

A Yes, sir.

Q Did you see any calls from Local No. 5 numbers that you have indicated here to Porto Rico?

A I do not recall, sir.

Q Did you see any listing of numbers to any place in Cuba?

A No, sir, I do not--I don't recall.

Q If the records so showed this would you have turned them over to the government?

A Yes, sir, if they--

MR. BRANSTETTER: (Interposing) Thank you.

MR. SCHIFFER: Your Honor, may we reserve with this witness since we are going to receive telephone records until tomorrow for any further cross examination that depends upon what those telephone records will indicate which the government is going to hand over some time today?

THE COURT: All right.

MR. BRANSTETTER: I understand this witness will be available when the government gives us these documents showing the various phone calls.

MR. NEAL: Your Honor, they will get these documents if they want to put them in evidence in their case I should think they can have Mr. Gallaspy come back as their

witness and put them in.

MR. BRANSTETTER: Now, may it please the Court, these documents have been subpoenaed since March of '63.

THE COURT: Gentlemen, just a moment.

MR. BRANSTETTER: We couldn't obtain these documents, the government has had them.

MR. NEAL: Turning them over, we are going to.

MR. BRANSTETTER: All right, turn them over now so we can see them.

MR. NEAL: May I finish, Mr. Branstetter?

THE COURT: Gentlemen, let's not argue about this matter. We have discussed it a number of times. The Court has heard the parties on it. The witness will remain available until tomorrow, if by tomorrow he is not needed further he will be excused at that time.

MR. BRANSTETTER: But this will depend upon whether or not we are furnished the records, will it not, may it please the Court?

MR. NEAL: We have agreed time and time again to furnish the records. There is a time and place for everybody to put in their case.

THE COURT: Gentlemen, let's not discuss the matter any more, Mr. Neal.

MR. NEAL: Yes, sir. I apologize to the Court.

MR. ALEXANDER: May it please the Court, may I

ask him one question? Are you through, Mr. Neal?

EXAMINATION BY MR. ALEXANDER:

Q Mr. Gallaspy, referring to Exhibit No. 143, is there any indication who that call was from? You have testified--

A (Interposing) Sir, pardon me, there wasn't one 143, was it?

Q 140.

A I am sorry.

Q Sir?

A Go ahead.

Q Was there any reference on that card who the call was from?

A No, sir, that information was not reported.

Q There was the name of no person on that card, is that correct?

A Aside from the to party, that is right.

MR. ALEXANDER: Yes. That's all.

BY MR. HAGGERTY:

Q On these exhibits, I don't know just where they are now, oh, the jury is examining them, this card is a card of Local Union No. 5, Baton Rouge, Louisiana, known as the General Truck Drivers, Warehousemen and Helpers Union, isn't that true? This is not the International as the card indicates but it is the Local Union No. 5 at Baton Rouge?

A I am sorry, I can't answer that, sir.

Q You could with the aid of the card?

A If I might see it.

Q Well, don't rush it, let the jury see them. We'll take it up when the jury gets through.

THE COURT: Well, let's have it handed to the witness to be returned to the jury.

MR. NEAL: They are both just the same, your Honor, he could look at one.

BY MR. HAGGERTY:

Q Does it indicate it's a Local Union No. 5?

A Yes, sir, there is a caption, what the listing is is a caption in our telephone directory.

Q I see.

A Under that caption there is also "Teamsters, Chauffeurs, Warehousemen and Helpers Local No. 5" as a listing but the main listing is "International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 5."

Q Who was billed for this telephone service?

A The billing is in the same name, sir.

THE COURT: All right. If there is nothing further you may be excused.

MR. NEAL: Thank you, Mr. Gallaspy.

THE COURT: Remain available until tomorrow

in case your services should be needed.

(Witness excused.)

MR. NEAL: Did I tell you to bring Mr. Gillen in?

MR. DALE: Raise your right hand, please. Do you solemnly swear that the evidence you will give in this case shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. GILLEN: I do.

MR. DALE: Have a seat.

MARTIN J. GILLEN, JR.,

a witness called at the instance of the United States of America, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. NEAL:

Q What is your full name, Mr. Gillen?

A Martin J. Gillen, Jr. (spelling) G-i-l-l-e-n.

Q Mr. Gillen, what is that, Gillen?

A That's correct.

Q By whom are you employed, sir?

A New York Telephone Company.

Q New York Telephone Company?

A Yes, sir.

Q How long have you been employed by that company?

A Seventeen years.

Q Seventeen years?

A Yes, sir.

Q What is your position with the company now?

A I am a special agent.

Q Special agent?

A Yes, sir.

Q Special agent. How long have you been a special agent?

A About a year and a half.

Q What were you before that, sir?

A I was a commercial representative.

Q Commercial representative?

A Yes, sir.

Q And before that?

A I was a coin collector.

MR. NEAL: Now, mark this Government Exhibit 143.

THE COURT: I understand you spell your name (spelling) G-i-l-l-e-n?

THE WITNESS: Yes, sir.

MR. NEAL: Is it Gillen, not Gilliland then?

THE WITNESS: No, Gillen.

MR. NEAL: Gillen?

THE WITNESS: Yes, sir.

MR. NEAL: Oh, I beg your pardon.

MR. SAULPAW: 143 and 144.

(The telephone company records referred to above were marked Government's Exhibits Nos. 143 and 144 for identification only.)

BY MR. NEAL:

Q Mr. Gillen, I am going to show you first--well, I will show you both of them, Government's Exhibit No. 143 and 144 and ask you if you recognize those?

MR. SCHIFFER: Objected to, your Honor, there has been no foundation laid for the testimony of this witness as to identifying any document.

MR. NEAL: I am proceeding to lay it.

THE COURT: Overrule the objection.

BY MR. NEAL:

Q Do you recognize those, Mr. Gillen?

A Yes, I do.

Q Are they records of your company, sir?

A Yes, they are.

Q Are they records made by your company in the regular course of business?

A Yes, sir.

Q Is it the regular course of your company's business to make such records?

A Yes, sir.

Q And are the entries therein made at or about the time of the event described?

A Yes, sir.

MR. NEAL: We offer them in evidence.

End Tk 33
Tk 33A fls.

MR. SCHIFFER: Your Honor, there's been no foundation laid as to whether this man is custodian of records or what his position is. All I know he was once a coin collector and then became a commercial representative, and that's a salesman, and then he became a special agent. A special agent of what?

THE COURT: Sustain the objection.

MR. NEAL: Your Honor, that is the found ation required. Would Your Honor advise me in what manner it is deficient? I am certainly not advised by Mr. Schiffer.

THE COURT: Well, he says he is a special agent. I don't know either what that is or what connection that has with these records.

BY MR. NEAL:

Q What connection does that have with the records of the company, sir?

A Well, I have access to any records kept by the New York Telephone Company.

Q Beg your pardon? Excuse me, are you finished?

A Yes. I have access to any records.

Q Are you the custodian of the records of your company?

A No, sir.

Q Well, who would be the custodian of the records of your company?

A Well, each business agent keeps their own records.

Q I see. Well, are these records, are these records -- are you familiar with these records?

A I worked in the business office for eleven years.

Q With respect to the records that you see?

A Yes, sir.

Q Do these records appear to you to be records made in the regular course of business?

MR. SCHIFFER: Objected to, Your Honor, that's an improper question at this time. It does not lay the proper foundation as to whether he is or is not the custodian, and he has already just testified he is not the custodian.

MR. NEAL: Your Honor, it doesn't make any difference whether a person is custodian or not, he is qualified about the records.

MR. SCHIFFER: It makes a big difference. All he said was he has access to records. That means I could go in there and have access to records in a general sense if I was looking for some information about my own account with the New York Telephone Company.

This man certainly has not shown a foundation as being a custodian and being personally acquainted with how these records are prepared, who prepared them, who made entries. He has to establish all that to qualify this witness.

THE COURT: Proceed.

BY MR. NEAL:

Q Are you familiar with the method of recording long distance telephone calls, sir?

A Yes, sir, I am.

Q You are?

A Yes, sir.

Q You are familiar with the procedure for making entries and records of this?

A I am, sir.

Q Have you reviewed these records?

A Yes, sir.

Q Can you testify, sir, that they are records of your company?

A Yes, sir.

Q Are they records based on your inspection and review made in the regular course of business?

A Yes, sir.

Q And it is the regular course of business to make these records?

A Yes, sir.

Q And they are made at or about the time of the calls they reflect?

A They are.

End 33A

MR. NEAL: Your Honor, I think that is sufficient foundation under the law.

34 fol.

MR. SCHIFFER: Your Honor, this man says at the present time he is a special agent and has been a special agent for a year and a half, would the government kindly elicit what a special agent is? What his duties are? Now, whether as a special agent he is custodian of the records sought to be introduced by the government now?

MR. NEAL: Your Honor, there is no requirement in the law that he be the custodian of the records. I don't understand that.

MR. SCHIFFER: Certainly has been no foundation as to whether he at any time has been the custodian, in any sense of these records they seek to introduce. And certainly I don't know in my experience of 17 years how as a coin collector and salesman --

MR. NEAL: (Interposing) That is an honorable position, Mr. Schiffer.

MR. SCHIFFER: I am talking with relation to these records. Everybody is honorable the government puts on in this case, I must assume, but it hasn't turned out that way; now, as a coin collector, let the government establish what relationship a coin collector has to the company records the government seeks to be introduced. If not a coin collector or commercial salesman, if in the commercial representative or salesman then what are the special duties of this man which are peculiarly would make him custodian of these particular

records which they seek to introduce and if there is no such duty which he has with the telephone company it is very obvious, your Honor, they do not meet the requirements of the statute. It is as simple as that. No big secret.

MR. NEAL: May I read Mr. Schiffer --

THE COURT: (Interposing) All right.

MR. NEAL: Mr. Schiffer says they don't meet the requirements of the statute, your Honor?

THE COURT: All right.

MR. NEAL: Any court of the United States and in any court established by act of Congress any writing or record whether in the form of an entry in a book or otherwise made as a memorandum or record of any act, transaction, occurrence, or event shall be admissible as evidence of such act, transaction, occurrence, or event if made in the regular course of any business and if it was the regular course of such business to make such memorandum of record at the time of such transaction, occurrence, or event, or within a reasonable time thereafter, all other circumstances of the making of such writing or record including lack of personal knowledge by the entrant, or maker, may be shown to affect his weight but such circumstances shall not affect its admissibility.

MR. SCHIFFER: Now, that does not tie in pursuant to the decided cases in point. We will be happy to supply those cases to the Court on that. And the cases are very

careful to point out, if your Honor please, that just anybody who is an employee of any corporation, just because of the fact of employment alone, does not qualify that person to take the witness stand and identify records on that corporation. It must be predicated, there must be a showing of the documents themselves must be predicated on the duties of that particular witness and in conjunction with the affairs of the company which peculiarly make that witness suitable to identify those particular records the government seeks to put in evidence.

THE COURT: Mr. Gillen, do you have any supervision over those who either make or keep those records?

THE WITNESS: No, your Honor.

THE COURT: Well, I am going to reserve a ruling upon this at this time until I can check some further authorities, gentlemen.

BY MR. NEAL:

Q What are your duties, sir, as special agent?

A We receive and process subpoenas served on the company and make appearances in court.

Q Are you the person authorized by your company to bring records?

A Yes, sir.

Q Into court?

A Yes, sir.

Q And to verify the manner in which they are made?

A Yes, sir, I've done that.

Q Just one minute, and to testify before juries as to the accuracy of the records?

A Yes, sir.

MR. SCHIFFER: Objected to, your Honor, there has been no foundation for this kind of testimony. I don't care what the other courts do. They are not obeying the law if they let him testify that way.

THE COURT: Can you proceed to another witness? Or do you wish the Court to make a decision upon this at this time?

MR. NEAL: We can proceed to another short witness, your Honor, but excuse me. Mr. Gillen?

THE WITNESS: I skipped a short phase of my telephone career that might help. I was in the traffic department for three months as an assistant traffic superintendent and in my training I actually made out tickets and handled long-distance calls.

BY MR. NEAL:

Q You handled long-distance calls?

A Yes.

Q Now, when you made the other tickets were they made out in the manner of the tickets you have identified here?

A Yes, sir.
Q Government's Exhibit 143 and 144, I believe?
A Yes, sir.
Q Are the tickets identified here made identical to the ones that you made out when you were in that department?
A They were, sir.
Q How many? Have you appeared in court various times to introduce records like these?
A Approximately --
MR. SCHIFFER: (Interposing) Objected to.
THE COURT: Sustained.
THE WITNESS: Approximately --
MR. SCHIFFER: (Interposing) Objection sustained.
THE COURT: I sustained the objection.
BY MR. NEAL:
Q Now, just a minute, the Court sustained the objection, for your 11 years I believe you said in what department?
A Commercial Department.
Q Were you working with records like these at that time?
A Yes, sir.
Q And at that time were you custodian of the records?
A Yes, sir.
Q Like these?

A Yes, sir.

Q Pardon me?

A Yes, I was.

Q For 11 years?

End 34 A Yes, sir.
34a fls

Q Do you have any object in testifying--

MR. SCHIFFER: (Interposing) Object to the form of that question, your Honor. The question here is, is he the custodian of the records the government now seeks to introduce, not whether he is custodian of 10,000 other records dealing with other matters. We are concerned only with why the government is attempting to put in evidence.

MR. NEAL: Your Honor, he identified these records as records made by his company, I don't see what custody--

THE COURT: (Interposing) I am reserving at this time the matter. If you desire to proceed at this time we will. Or we will take a recess for a moment until the Court can check some authorities.

MR. NEAL: The only problem is this, your Honor, the government in fulfilling its duty as to exhibit--

MR. SCHIFFER: (Interposing) Your Honor, this should not be stated in front of the jury, if the Court please.

THE COURT: Everybody be at your leisure for a few moments.

MR. NEAL: Very well.

(Thereupon, a very short recess was had and then court was in session.)

THE COURT: Overrule the objection. Just a

moment. Are all the parties present?

MR. SCHIFFER: Yes, sir. No, no.

THE COURT: Mr. Silets hasn't arrived yet. All right. Overrule the objection. Proceed.

BY MR. NEAL:

Q Now, sir, showing you what has been received in evidence--

MR. NEAL: May the record show that Exhibits No. 143 and No. 144 have been received in evidence, your Honor?

THE COURT: Yes.

BY MR. NEAL:

Q Showing you what has been received in evidence for the Government's Exhibit No. 143, I ask you waht that shows?

A The record of a toll call.

Q Pardon me?

A It is a record of a toll call.

Q Telephone call?

A Yes, sir.

Q From whom, or from where to where and to who, whatever it shows?

A It shows a call made from New York City to Baton Rouge, Louisiana.

Q To anyone in Baton Rouge, Louisiana?

A To Telephone No. 924--

Q Pardon me?

A Telephone No. --this is a station to station call.

Q All right, sir.

A Charged to a credit card.

Q All right, now, what is the telephone number in Baton Rouge, Louisiana, to which that call was made?

A 924-3886.

Q That would be 924--that would be WA 4-3886?

A I am not familiar with the central office.

Q I believe that has been the testimony. Would you continue, please?

A Yes, sir. This was a call made on December 4, 1962.

Q December 4, 1962?

A Yes, sir.

Q From New York?

A From New York City to Baton Rouge, Louisiana.

Q To WA 4- or 924--

MR. BROWN: (Interposing) Your Honor, Mr. Neal is insisting on doing the same thing the Court told him not to, he keeps repeating.

THE COURT: Sustained.

MR. NEAL: I wanted to make it clear. That is all.

BY MR. NEAL:

Q That's December 4, 1962?

A Yes, sir.

Q Now, you say that was charged to a credit card?

A Yes, sir.

Q Would you give us the credit card number?

A Credit Card No. 523-159-K-34.

Q K-34, is that correct?

A Yes, sir.

Q K-34, was what year?

A 1962. K is 1962.

Q What is J? J would be 1962, wouldn't it?

A I believe it would. J was 1961, yes, sir.

Q Now, this was charged to Credit Card--

MR. BROWN: (Interposing) I move the answer from the witness be stricken, your Honor. As I understood it he doesn't know because I think if he knows telephone credit cards they don't run in sequence.

THE COURT: Sustained.

MR. NEAL: Your Honor, that has been the testimony we have specifically--

MR. BROWN: (Interposing) Not from this witness.

MR. NEAL: Very well.

BY MR. NEAL:

Q Charged to that credit card made to Baton Rouge,

Louisiana, on December 4, 1962?

MR. SCHIFFER: Your Honor, again Mr. Neal is repeating. Going through the same thing again.

MR. NEAL: I would like to show at this time--

BY MR. NEAL:

Q Would you give us the time of the call and the duration of the call?

A The call was made at 11:48 A.M., and lasted for a period of 41 seconds.

End Tk 34A
Tk 35 fls.

Q 41 seconds?

A Yes, sir.

Q That would be Eastern Standard Time, I assume, is that correct?

A Yes, sir.

Q All right. Now, I'd like to show Government's Exhibits 141, Government's Exhibit 77, and the Exhibit that is 143 there, I believe, to the jury.

MR. SCHIFFER: Have these records which have just been shown by this witness and identified by Mr. Neal records which this witness by his past experience is familiar and has had in his custody, has made any personal check on? These obviously come from other jurisdictions.

THE COURT: All right.

MR. NEAL: The others are ones already in evidence, Your Honor.

MR. SCHIFFER: Yes, sir, Your Honor, but they come from different jurisdictions. This man identifies himself as having come from the New York Telephone Company.

THE COURT: Well.

MR. NEAL: I'm not asking any questions, I am asking that they be shown to the jury, they are in evidence.

MR. SIIETS: Of course, I object to them being shown piece-meal to the jury, having been pulled out from all the exhibits that have been introduced in evidence and trying

by inference to associate these two together.

This again is argument but the mere fact that the government is extracting some exhibits and associating them with what this man is testifying to, is asking the jury to draw some conclusion that they have something to do with one another. That is argument.

THE COURT: Overrule the objection.

MR. NEAL: Mr. Sertel, would you, please?

BY MR. NEAL:

Q Now, sir, I show you what has been marked or received in evidence as Government's Exhibit 144 and I ask you to tell us what that is, tell us what the record shows.

A This is a toll ticket indicating a telephone call made from New York City, a person-to-person call charged to a credit card to Chicago, Illinois, telephone number 943-0024.

Q You say that was person-to-person?

A Yes, sir.

Q What is the date of that call?

A This call was made on December the 4th, 1962.

MR. SIETS: I move, Your Honor, that it be stricken as being subsequent to the dates charged in the indictment, cannot have any competency or relevancy in this matter.

THE COURT: It may be considered by the jury as it might or might not reflect the motive or intent.

MR. SIETS: I can't hear, Your Honor.

THE COURT: It would be considered by the jury only as it might or might not reflect upon the motive or intent of any party defendant to whom it might or might not refer, it would not be considered as to any defendants to whom it does not refer.

BY MR. NEAL:

Q Sir, now would you tell me the approximate time of that call?

A This call was made at approximately 11:58 a. m. and lasted for a period of 53 seconds.

Q All right, sir. That was December 4th, 1962?

A December the 4th, 1962.

Q All right. Now, you said that was person-to-person. From what person to what person?

A It was a person-to-person call from a party--, I will spell the name. (Spelling) T-w-e-e-o.

Q Tweeo?

A Tweeo to a person--, the called party was Dormon. (Spelling) D-o-r-m-o-n.

Q Dormon in Chicago?

A In Chicago, Illinois.

Q You said that is charged to a credit card.

A Charged to credit card 523-0159-K-34.

Q Now, would you give us the number to the number

in Chicago to which the call was made?

A It was made to Chicago, Illinois telephone number 94---, 943-0024.

Q 943 is actually WH3 also, is it not, 94 would be WH?

A That is right.

Q WH 3-0024 in Chicago?

A Yes, sir.

Q All right. And that was, I believe you said, did you testify it was December 4, 1962?

A December the 4th, 1962.

Q Lasted approximately 53 seconds?

A Yes, sir.

MR. NEAL: I would like now to go with that the jury has to show these two tickets to the jury but I would like for them to catch up with the other, if they would, please, showing them Government's Exhibits 55 and 144.

MR. SCHIFFER: May we have the jury instructed at this time, if Your Honor please, that none of this testimony of this witness nor the exhibits which are now in evidence as a result of this witness' testimony applies to the Defendant Parks.

THE COURT: Well, it would not be considered as to any defendant with whom the exhibit does not refer.

MR. NEAL: Now, with that, I would like to show

the jury Government's Exhibit No. 59 and ask the jury--.

THE COURT: (Interposing) Well, now, if you wish to show them you can.

MR. NEAL: I can? All right.

THE COURT: No comment.

MR. NEAL: But, Your Honor, it needs some sort of authority to read the time and date. May I ask this witness to read the time and dates on it?

MR. SIIETS: No, Your Honor.

THE COURT: No.

MR. NEAL: I show that to the jury.

MR. SILETS: The vice of this is by Mr. Neal's very comments, Your Honor, that he wants to explain this to the jury, he wants to argue to them, that is the vice of pulling one single document out and handing it to the jury to associate with another document.

THE COURT: I believe it is proper to permit the jury to examine the exhibits which have been introduced but I will not permit any comment upon them.

MR. SCHIFFER: Is Mr. Neal referring to Exhibit 59, Your Honor? Is that the one he just referred to?

THE COURT: That is the exhibit as I understand it.

MR. SCHIFFER: Well, Your Honor, from my notes Mr. Neal explained to Your Honor in the absence of the jury, there couldn't be any possible connection of any kind between

the exhibits he just put in through this witness and Exhibit 59 to which he refers to which he wants passed to the jury and I would prefer, of course, that it be given in the absence of the jury.

THE COURT: Yes.

MR. NEAL: I think the connection is apparent.

THE COURT: Well, let's not comment on the matter then further. It is up to the jury to consider these matters and give them such weight as they think they are entitled.

MR. SCHIFFER: I believe, Your Honor, that showing them exhibit 59 at this time is highly prejudicial to the defendants in this case and, therefore, I think we need a ruling as to whether 59 should be shown to the jury at this time, unless Mr. Neal can satisfy the Court in the absence of the jury that there is a connection in this record between Exhibit 59 and 143 and 144.

THE COURT: All right. Just a moment. Overrule that objection.

MR. SCHIFFER: Since Your Honor has overruled my objection may we then ask Your Honor to permit the jury to see all exhibits and let them draw any inference they want based upon fact and not on an inference.

THE COURT: Yes, yes, the exhibits, as counsel examine witnesses they can submit exhibits that they think

appropriate examination and inspection to the jury after they have been admitted.

End 35

35 A fol.

MR. NEAL: You may cross examine.

THE COURT: Now, gentlemen, we are at the normal time for adjournment. I will allow you to cross examine this witness at this time if you desire to do so. Is there any cross examination of the witness?

MR. SILETS: Just a couple of questions.

THE COURT: All right, sir.

CROSS EXAMINATION

BY MR. SILETS:

Q Mr. Gillen, do you know how many people were located at the No. 943-0024 in Chicago on the date that was read by you, December 4th?

A No, sir.

Q Would it surprise you to know that there were between 50 and 75 people who would receive calls at that number?

A I have no knowledge of that number.

Q Do you have any knowledge whether there is a man named Dormon at that number?

A No, sir.

Q Do you have any knowledge that there are at least three people at that number by the name of Dorfman?

A No, sir.

Q You don't know who, in fact, received that call, do you?

A I only know the name on the ticket, that is all.

Q Were you subpoenaed to bring any other records with you?

A No, sir.

Q When did you bring these records to Chattanooga?

A I didn't bring these records.

Q When were they brought to Chattanooga?

A I don't know.

Q Were they ever in your possession?

A No, sir.

Q Then, your Honor--do you know whether these records are in the same condition as they were at the time that they were withdrawn from the files of the New York Bell Telephone Company?

A There is no indication that there was any change.

Q Do you know, sir, if they are in the same condition? You don't know, do you?

A I don't know.

MR. SILETS: Your Honor, I move that they be stricken.

THE COURT: Overrule that.

End Tk 35A
Tk 36 fls

THE COURT: All right, may this witness be excused?

(Witness excused.)

MR. NEAL: Thank you, Mr. Gillen.

THE COURT: Ladies and gentlemen of the jury, at this time we will excuse the jury for the day and ask you to observe the same instructions not to discuss the case or allow anyone to talk with you. If there are those members of the jury who still have exhibits, let's please turn them in before leaving the courtroom.

MR. HOOKER: I don't think they have all had an opportunity to look at that group. They can do so, of course, tomorrow.

THE COURT: How far along have we gotten?

MARSHAL SERTEL: Right here, your Honor.

THE COURT: Well, we will allow them to look at them. If more than one juror could examine them at a time it would be helpful.

All right, the jury can be excused at this time for the day and report back at 9:00 o'clock tomorrow morning. Observe the same instructions the Court has always given you, that is, not to discuss the case or allow anyone to discuss it with you or talk with you about it or talk about it in your presence.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom and in their absence the

following proceedings were had, to-wit:)

MR. SILETS: Your Honor, at this time I would like to file a motion with the Court to strike Exhibits No. 140, No. 141, No. 142, No. 134 through No. 138.

THE COURT: Just a moment, let me get those numbers down.

MR. SILETS: I have got it in my motion. Exhibits No. 140, 141, 143, 134 through 138, and 133 and 144. The grounds for this is grounds I have raised previously on these toll tickets, the information recorded there by the long-distance operator is information received from the person to whom she was speaking. Now, the cases say that it must be within the business, ordinary course of the business and duty of the person who is making the declarations at the time the entrant is making the entry in order for the entry to come within the meaning of the business records act.

Now, I cite in this motion the authority of United States versus Grayson which states: "Cases where an entrant, that is the operator, records what he or she has heard the document will be evidence of what they have told him that is the declarant, only in case it appears that it was part of their, the declarant's regular course of business to report to, in this case, the operator, what the declarants themselves knew as it was part of his business to record what they said. The statute did not mean to make competent whatever the entrant

picked up from random sources although it was part of his business to pick up information where and when he could and make a record of it."

End 36
36a fls

The government has not established as, the government is now attempting to use as substantive evidence proof of the very facts sought to be introduced by these documents that it was Dorfman who made the call because the operator wrote down Dorfman person-to-person to Tweel, or Tweel person-to-person to Dorfman.

Now, in order for that to become substantive evidence under the business records act it must have been the duty and within the regular course of business of Dorfman, the declarant, to advise the operator. That has not been shown and there is not a sufficient basis within the meaning of Section 1732, Title 28, United States Code, and I ask that they be stricken.

THE COURT: All right. Mr. Silets, I will reserve that and study that case overnight.

MR. NEAL: Does Your Honor have the citations of authority we have heretofore given to the Court on this matter?

THE COURT: Yes. Now, gentlemen, there was a matter at noon of a subpoena to a Mr. Bennett and a motion--, petition had been filed to quash the subpoena. Is that a matter that we can take up at this time? Any party wish to be heard on the petition to quash the subpoena?

MR. HAGGERTY: We haven't been served with any petition.

THE COURT: The petition has just been handed to the Court. Signed by Mr. Hutcheson and is Mr. Hutcheson here? See if Mr. Hutcheson is here.

Mr. Hutcheson, the Court has just have handed to it a petition to quash the subpoena in regard to Mr. Bennett. Have you furnished copies of that?

MR. HUTCHESON: If the Court please, I think I have copies for everybody. I would like to keep one for myself and hand the others to the clerk of the court or to the marshal for distribution?

THE COURT: All right.

MR. NEAL: Would Your Honor like to take up very briefly a matter while they are looking at that? It deals simply with Mr. Silets' request for documents? Now, I remember that Your Honor as being fantastically broad request. Could we, could we ask Mr. Silets to specify in some sort of motion under Rule 17--

THE COURT: (Interposing) Well, his request, I had the motion written up by the reporter at noon, and will be glad to make available to you.

MR. NEAL: Could we see it momentarily, Your Honor?

THE COURT: Yes, sir.

MR. NEAL: Maybe it is not as broad as I recollected.

MR. BRANSTETTER: Also at this time, may it please

the Court, do I understand that the Witness Partin is remaining here at the direction of the Court because of introduction of this other material?

THE COURT: Yes, sir.

MR. BRANSTETTER: Thank you.

THE COURT: Those were the instructions given. Is that correct, Mr. Marshal? Mr. Partin was requested to remain available?

MARSHAL MANSFIELD: Yes, sir, I gave them to him.

MR. NEAL: Your Honor, I would like to point out on this, he is asking for all telephone records--

THE COURT: (Interposing) Mr. Neal, wouldn't it be more appropriate if you studied it overnight and brought it up to the Court in the morning what you think the proper response to it is?

MR. NEAL: I suppose that would be, Your Honor.

THE COURT: Mr. Hutcheson, do you wish to be heard upon your petition to quash?

End 36A

Tk 37 fol.

MR. HUTCHESON: Yes, if your Honor please. Your Honor, I would like to announce that my representation of the petitioner in the petition which is now before the Court relates to his capacity as president of Local 5 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers located in Baton Rouge, Louisiana.

I might say that I was retained because it was strongly felt that as the result of the testimony of Mr. Partin there was a very strong likelihood that the International Teamsters, through its general president, who is now here on trial, would move under the constitution of the International Union to impose a trusteeship on Local 5.

THE COURT: Well, I think it would just be more helpful to the Court, those are matters --

MR. HUTCHESON: (Interposing) I am willing to explain that because there are some matters which have occurred which give substance to that fear.

Number 1, if your Honor please, I would like to address myself to the technical phase of the subpoena and that the subpoena as served bears the style "Eastern District of Louisiana, Baton Rouge Division. United States of America versus James R. Hoffa, et al, Number 11898."

In the first instance there is, of course, no case by that number now pending in the Eastern District of Louisiana but there is one of that style but not of that number

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pending in your Honor's court. The number which this case presently bears is 11989. For those reasons this subpoena I urge upon your Honor is defective upon its face.

The second matter that I would like to call to your Honor's attention is that at the time this subpoena was served there was attached to it a 50-dollar bill in United States currency. Now, if your Honor please, it is required that at the time of a service of a subpoena that the witness who is being subpoenaed be also tendered at that time 8 cents per mile for all miles to and from his place of residence to the court to which he has been subpoenaed.

The mileage, as computed on the basis of Rand-McNally, is 549 miles each way, 8 cents times that would be an equivalent of $43.92 and twice that $87.84. In addition to that, if your Honor please, it is our position that there must also be tendered $12.00 for the first day for per diem. This was not done.

Ground No. 3. There is no allegation in the subpoena which avers or shows that any of the documents which are requested have any relevance to the present proceedings.

No. 4. The issuance of the subpoena is irregular inasmuch as it is only in furtherance of efforts of the defendant to discover or engage in a fishing expedition and is, therefore, contrary to the language and intent of Rule 17C of the Federal Rules of Criminal Procedure and I have some cases

37-3

for your Honor on that proposition.

No. 5. The motivation for the issuance of the subpoena is for the harassment of this petitioner, who is president of Local 5 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, and Edward G. Partin, secretary-treasurer of said local union, and is thus an improper collateral subject of inquiry and is an abuse of subpoena of this court.

Now, if your Honor please, addressing myself to the last first, it has been held that a subpoena which is issued under 17C, a subpoena duces tecum, cannot be used by simply mailing to points across the United States and bringing witnesses in with whom they have never contacted or spoken to, and attempted to get evidence which is not clearly identified, just so that when that person comes into court he will be able to be seen prior to the time that he is to testify and ask him to produce such records as he has in his possession covering a certain time period.

End 37
37a fls

Now, this is improper on its face. Now, if Your Honor please, I would like to call your attention to some cases on the fourth proposition, that is, that the issuance of a subpoena is irregular inasmuch as it is only in furtherance of efforts by the defendants to discover or engage in a fishing expedition and is therefore contrary to the language and intent of rule 17-C of the Federal Rules of Criminal Procedure.

Now, Rule 16, if Your Honor please, is a rule which permits discovery. Now, it has been held that a defendant may use the benefit of 16-C, 16, I beg your pardon, 16 for discovery, and after identifying the articles under the discovery procedure, if the government fails or refuses to put any of those documents in evidence which is relevant or material that then 17-C may be used by the defendant to get those.

THE COURT: Rule 16 refers to documents in the government's hands, does it not?

MR. HUTCHESON: Rule 16, if Your Honor please, relates to any documents which may be held by the government, as I understand it.

THE COURT: That is what I say, documents in the possession of the government.

MR. HUTCHESON: That is correct, but I am trying to delineate, if Your Honor please, from my understanding of

Rule 17-C and it is not a general discovery rule.

Now, there are several cases on point. I'd like to mention some of the ones that have been ruled upon. U. S. versus Bronson, District Court Wisconsin, 1957, 155 Fed. Supp. 407.

U. S. verus Bowman Dairy Company, Illinois, 1950, 185 Fed. 2d 159, and, if Your Honor please, that is the citation of the case in the lower court and it was reversed by the Supreme Court on other grounds and I shall go into that so that it will be clear that the Supreme Court upheld the basic rational of the decision as relates to the use of 17-C.

Gilmore versus U. S., Texas, 1958, 256 Fed. 2d 565.

U. S. Versus Schine (Spelling) S-c-h-i-n-e, District Court New York, 1954, 126 Fed. Supp. 464, and a myriad of other cases including U. S. versus Winkler, 17 Fed. Rules Decision, 213.

Now, if Your Honor please, I don't want to be in the position of obstructing the processes of this Court, I don't want to stand in the way of having this witness cooperate with Your Honor, and for that reason I do not want to rely too heavily upon the technical error on the face of this subpoena.

I think that there is proper grounds for quashing

the subpoena because of the more substantive reasons that I have mentioned and if Your Honor does not feel that this subpoena shall not be quashed on the more substantive basis that I have suggested I withdraw the technical reasons for the motion to quash.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, this subpoena was issued by Mr. Victor Hess of New Orleans, an attorney, who authorized the issuance. As to the amount of money he paid I do not know. Before going downto one, two, three, four, and five, first of all, the Eastern District of Louisiana is technical and I move the Court to amend it to the Eastern District of Tennessee.

THE COURT: You will be allowed to do that.

MR. HAGGERTY: Next, may it please the Court, as to the required sum of money, the respondent is here and responded to the subpoena. Any sum of money can be tendered to him and I do hereby tender that at this time.

THE COURT: All right. What further amount do you tender?

MR. HUTCHESON: If Your Honor please, of course, I would like to have that computed and we, of course, will except because I didn't want any technicality to stand in the way of this testimony, I think it is about $99.00, I can't be--

MR. HAGGERTY: (Interposing) All right. I tender a $100.00 at this time.

MR. HUTCHESON: All right. Here you are.

MR. HAGGERTY: Now, as to the docket entries, it is my information what was subpoenaed was--, this is my information, Your Honor, I'd have to see the subpoena itself because I haven't a copy available.

End 37A

Tk 38 fol

HUTCHESON: I would be delighted.

MR. HAGGERTY: This is what the subpoena is and I think it seems to be clear. And bring with you for the period of September 1, 1962, through February 28, 1963, all canceled checks, vouchers, bills, statements, expense vouchers, cash receipts journal, machine tapes, cash disbursements, payroll records, of Local Union No. 5, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of American, the purpose of that subpoena, may it please the Court, is for the purpose of examination of the records to lay the foundation for the impeachment of the testimony of the Witness Partin under the statements of his authorization and so forth, to spend the union money on what was purely a personal matter to him and he claimed to have authorization.

THE COURT: Is that not a collateral matter?

MR. NEAL: Yes, it is quite clearly a collateral matter.

MR. HAGGERTY: I would say this is the only way that we can obtain that information at this time because we found out several days ago the position of the local union and, therefore, if we would have to resort to the clumsy procedure under Rule 17-C, I say it would be of no avail to us because we haven't the time, we haven't the manpower, we haven't the effort. We think that a subpoena is ample to cover it.

THE COURT: Do you have any authority or could you get me any authority on that not being a collateral matter? In other words, obviously, Jim, we cannot pursue all collateral issues. I think the law is rather clear on that.

MR. HAGGERTY: We want records here, payroll records, expenses, that he said he paid, telephone records, which are not collateral in this issue and all these circumstances. It is a most important part and hotel bills on certain occasions, all of which are important to the defense in this case, and essential to the defense in this case. And I say that they are highly relevant. We are not looking for a fishing expedition. We are not looking to put the union in receivership or trusteeship, nothing of that kind. We are simply--we are simply here on the issue of this subpoena to obtain evidence to present to the Court and jury in furtherance of our defense. And I say it is highly relevant and inasmuch as we have been but recently acquainted with it, we have had no time for such other procedure and I think subpoena duces tecum is sufficient to cover it.

Now, as for the claim of arrestment, there is always the claim of arrestment under a subpoena of this nature. I have never heard one that wasn't. That is nothing new. So, therefore, we ask your Honor that the subpoena be sustained and we have a right to have these records under

these circumstances.

THE COURT: Is there any procedure whereby the records can be produced other than by placing the witness on the stand and producing the records?

MR. SILETS: If I may be heard, your Honor, the rule itself provides that in relevant part it says the Court may direct that books, papers, documents, or other objects, designated in the subpoena be produced before the Court at a time prior to the trial or prior to the time when they are to be offered in evidence.

And may upon their production determine the books, papers, documents, or objects, portions thereof, to be inspected by the parties and their attorneys.

That is the very basis of the rule so that we can look at them, pull out the relevant ones and produce them to the Court, save the time of the Court and jury when the man takes the witness stand, the very Rule 17 expressly provides for it.

THE COURT: All right.

MR. HUTCHESON: If your Honor please, of course, the rule is as stated by counsel, but I emphasize this word, the Court may direct, may, if your Honor please, it is purely a discretionary matter and there has been a petition filed to quash which gives your Honor the issue and have it squarely before him as to whether or not this is the proper way to

proceed or not. Whether or not this matter is a collateral matter, whether or not it is a fishing expedition, whether or not these records should be brought in carte blanche between such-and-such a date and such-and-such a date, or whatever it may show, no statement or allegation as to what it may show or which particular records are involved. It can be nothing but a fishing expedition regardless of what else it is called.

End Tk 38
Tk 38A fls.

MR. SILETS: If your Honor please, I have seen thousands of government subpoenas and I have seen as many defense subpoenas and the federal courts, I have yet to see one where the necessity has been set forth in the subpoena, it is a novel proposition, a unique proposition that counsel is suggesting. It may be in fact what they do in the state court, in the State of Tennessee, but it is not the procedure in the federal courts.

Furthermore, I would like to call the Court's attention to Rule 17, this motion to quash again is discretionary. The Court is under no obligation to quash and the rule in the wisdom of the Supreme Court when they promulgated the rule expressly limited the reasons for quashing only when it would be unreasonable or oppressive. Now, this man has yet to say one thing to my hearing which means that these documents, the production of these documents are unreasonable or oppressive. The man has got them right here in a suitcase. He hasn't suggested it is an unreasonable request to produce them or it is oppressive to produce them.

The rule specifically and categorically limits the basis for a motion to quash a subpoena and he has yet to make out a case for a motion to quash.

Now, as far as the permissiveness of the Court permitting the defense to examine them, prior to the time that the witness takes the stand, it is true that it says the Court

may do that. On the other hand, if the Court does not exercise that discretion then the defense would have to go through the tedious and onerous task of examining this witness as to each of the documents in this suitcase.

Now, to save the time of the Court and jury, of course, the Court would, it seems to me, exercise its discretion in favor of the defense in favor of a situation where a man's liberty is at stake, to let the defense examine them.

Now, to the heart of what counsel has suggested and what the Court has inquired about, Mr. Partin has testified that the actions of his going to Nashville were condoned by the union with the consent of his union. As a matter of fact, he stated as my recollection of his testimony that they paid his expenses. Now this is extremely relevant and pertinent to the issue at hand. Namely, whether the government at any time paid his expenses, at any time was paying him anything to buy his testimony, whether he was doing that with the consent of the union, whether he in fact was there, will these records disclose that his union paid them? We have no evidence as yet who paid these bills. So all we know is that the hotel was registered in the name of a man named E. G. Partin. The witness from the hotel today said he couldn't even say E. G. Partin was in the room on these days.

Will the records of the union describe when he was in Baton Rouge? Will they tell us when he was in Nashville?

Will the

Will they tell us what kind of business he had in Nashville? These are relevant and not collateral matters.

Now, I'm urging this on behalf of the Defendant Dorfman, and other defendants, even though the subpoena was not issued by Dorfman, but was issued on behalf of Hoffa. We have been embroiled and enmeshed in this matter by the government, joined, and sitting here all together, and this affects everybody, your Honor.

And on behalf of the Defendant Dorfman I cannot see any basis for this motion to quash.

End 38a
39 fls

THE COURT: All right.

MR. HUTCHESON: May I address the Court once more? I'd like to point out that from Mr. Silets' own statement this can be nothing but a fishing expedition. If you will recall, Your Honor, he said, "Will it show this? Will it show that?"

If Your Honor please, this subpoena duces tecum is to be used to secure the possession of documents which they don't know are in existence and which will show what they say and represent to the Court that it will show. Now, if they don't know that it is nothing but a fishing expedition. They hope that it will show what they say that it will show and thus become relevant because it will go to the matter which they hope to establish in this court.

I urge that Your Honor quash this subpoena.

MR. SCHIFFER: May I state to Your Honor that it is not alone what the records will show but I say right now those records exhibited to the defendants had better show a resolution from the membership saying that Mr. Partin can take the money from the union and use it for the purpose he said he had expressed authority for and if those records don't have such a resolution then Mr. Partin will be back for a perjury charge should that occur and he is charged with the perjury. It vitally affects all of his testimony in this case and the defendants certainly have a right to that because

they are questioning his credibility all the way and, secondly, in addition to attacking his credibility we say the government was paying him for his testimony.

Now, since these are the issues these records do become vital and I say again, for the benefit of Mr. Bennett since Mr. Partin did testify about a resolution with permission of the membership, that resolution better be there. That is what we are looking for.

MR. NEAL: Your Honor, I would like to answer Mr. Schiffer that I don't recollect any testimony of a resolution for him to be in Nashville.

MR. SCHIFFER: He said he had permission.

MR. NEAL: You said resolution, Mr. Schiffer.

MR. SCHIFFER: That's the way a membership generally expresses itself at a union meeting or a corporation meeting or a board of directors, they pass a resolution. If Mr. Neal knows another name for the same document, I would be happy to learn it. The only word I know for that is a resolution permitting an officer to dip his hands into the money of the union. That better be in the record.

MR. HAGGERTY: It is, under the International Constitution it is necessary that a matter of this kind be passed by resolution of the membership, not by a few members petitioning him to do such a thing or agreeing that he might use union funds on that part but it is not necessary to

disclose for what purpose we want the records.

If we go into al those statements we would disclose our defense and I think we have disclosed quite a bit of it now and I say the thing is the truth is what we are looking after and here we have technicalities on one hand and men who are facing criminal or are engaged in defending criminal indictments. I say that under the circumstances this subpoena should be allowed to stand and we should be allowed to examine these records, otherwise what we will have, we will bang at it again and we will bring him up here and I will tell you what will happen, we will be here three or four days going through these records because we are certainly entitled to them.

End 39

Tk 39A fol.

MR. HUTCHESON: If your Honor please, I don't think that this subpoena asks for the minutes of any meetings. Now, both counsel have represented to the Court that minutes would be very important and germane to this proceeding and yet they didn't even ask for that.

MR. SCHIFFER: Yes, we asked for the financial records, those would be --

MR. HUTCHESON: (Interposing) That's not a financial record, call it what you care to, it's not.

MR. SCHIFFER: The flow of money will be shown by these records and I should also like to leave one thought with your Honor, if you will permit me to state it and that is I think your Honor knows certainly that Mr. Partin's appearance before this court was a complete surprise to the defense and since the government engaged in this big surprise, why, I think that if they brought in a surprise witness who perjured himself we, as defendants, are at least entitled to expose his perjury and this is the only way in which one element of his perjury can be proved.

MR. NEAL: Your Honor, may I say one thing before -- I am not addressing myself to any subpoena or anything like that -- but we, the government, is going to take the firm position -- your Honor has permitted cross examination in its wisdom, but I am not trying to reargue that matter, but your Honor has permitted cross examination of a government witness

far beyond what the Sixth Circuit says is the scope of, general scope of cross examination.

Now, once that is done, your Honor, there is no dispute that the so-called prior acts of misconduct of other testimony that is not relevant to his direct testimony in this case cannot be inquired into or cannot be refuted by what is called, your Honor, extraneous evidence, that is, putting witnesses on the stand to testify.

Now, I am sure that the defense counsel are going to try to put witnesses on the stand in this case to testify about rape or these other things. Now, your Honor knows that that is not proper and I would like, if your Honor has any time to give, your Honor, the best general discussion of what can be proved, what can be inquired into, not on cross examination but by extraneous, that is, putting on witnesses, is to cite McCormick on Evidence, Chapter 5, page 62, et cetera. It is a good statement. It's probably more liberal than the Sixth Circuit, but it is a good statement.

THE COURT: What is the citation?

MR. NEAL: Certainly it's not proper to go into these collateral matters by extraneous witnesses not on cross examination. That is the only thing we have with respect to the subpoena.

THE COURT: All right. May the Court have the subpoena?

MR. NEAL: We will have a brief on this matter, too, your Honor.

MR. HAGGERTY: I'd like to inquire of the government. Did you draw the motion or did the government?

MR. HUTCHESON: I drew that.

MR. BERKE: In your office?

MR. HAGGERTY: Did the government direct you to do it?

MR. HUTCHESON: No, sir.

MR. SCHIFFER: It's mighty strange, I'd like this on the record, it's mighty strange to find a situation where a witness who was subpoenaed and when a witness is subpoenaed he is supposed to tell the truth when he testifies and the documents he brings is supposed to have the verity of the custodian.

Well, now, it's a mighty strange thing to see -- we are in a search for justice and the truth and only the truth and justice -- as the government suddenly adopts the position that they don't want a witness to testify here in this proceeding because he may have exculpatory material and testimony to give for the benefit of this Court and jury because it may absolve the defendants and also prove that their own star witness, their big surprise witness, perjured himself before your Honor and with this jury in an attempt to falsely convict these defendants of a crime.

So I want the record to indicate, if I may, please, that I find it strange that the government adopts the position when they want to subvert justice and keep the truth from entering this case.

THE COURT: All right. Anything further, gentlemen? If not, the Court will take this under advisement overnight.

MR. SILETS: Your Honor, if the Court please, if the Court is going to take this under advisement may I suggest this procedure:

Will the prospective witness turn over to the Clerk or to the Court these records so that the Court may have them and be under the authority of the Court until such time as the Court rules upon the matter because if the Court rules that they are entitled to have this man up here and we are entitled to see the records in advance then we would like to have them in the same condition that they are at present.

Now, this man has shown a certain hostility to the defense and I don't know to what extreme the hostility may vent itself, but I ask the Court to exercise the protection of the Court over these documents.

THE COURT: Well, I don't believe that would be a proper matter for the Court to act upon until it had an opportunity to consider the motion to quash.

If there is nothing further, let's adjourn court

until 9:00 o'clock tomorrow morning.

(Thereupon, at 5:10 o'clock, p.m., court was adjourned until 9:00 o'clock, a.m., February 13, 1964.)

End 39a

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 12, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 12th day of February, 1964.

Fred B. Downing

Official Court Reporter

Disclosure (4465) (4470) (4472) (4473)

SPLINDE L

IN THE DISTRICT COURT OF THE UNITED STATES

EASTERN DISTRICT OF TENNESSEE

SOUTHERN DIVISION

Bufalino Do 4455 4479

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff.	:	
	:	
vs.	:	NO. 11,898
	:	
	:	
JAMES R. HOFFA, ET AL,	:	
	:	
Defendants.	:	

(4471)

Date: February 11, 1964

Chattanooga, Tennessee

Before: Honorable Frank W. Wilson, Judge

OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME XVIII

PAGES 4301 TO 4614

SEVENTEENTH DAY OF TRIAL

9:00 O'Clock A. M.
February 11, 1964

(Thereupon, pursuant to adjournment from February 10, 1964, court was in session.)

(The jury of 12 and 4 alternates remained excluded from the courtroom and the following proceedings were had, to-wit:)

MR. HAGGERTY: May I address the Court?

THE COURT: All right, yes, Mr. Haggerty.

MR. HAGGERTY: May it please the Court, I have a motion to file with the Court.

THE COURT: All right, sir.

MR. HAGGERTY: And I will say it is in two parts because I haven't a staple.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, the motion I have filed with the Court and given the government again has to do with surveilance and I call your Honor's attention to the law as laid down by the United States Supreme Court in the case of Sinclair versus United States 279 U. S. Page 749 wherein the court stated and approved the procedure followed in that case when there was a question of surveilance. In that instance it was one of the jurors. It doesn't make any difference, it's analogous to the situation

we have here that the Court should conduct a voir dire and if, in the discretion of the Court after hearing the testimony, if necessary he should declare a mistrial.

So I respectfully suggest to the Court that predicated on this motion and prior motions that were filed and the briefs in support that the Court do just that and at this time stop the proceedings and declare a mistrial.

THE COURT: All right, Mr. Haggerty. I will take these matters under advisement and read these opinions that you have cited.

MR. HAGGERTY: May I suggest to the Court if it is at the convenience of the Court that rather than wait until after the case is over, in the event there is a conviction and a necessity for filing a motion for a new trial at that time, it is a great loss to the defendants. While the witnesses are already here or hereabouts at this time and are available and, therefore, if the case is over there will be great difficulty in producing certain of the witnesses for such a hearing, therefore, I suggest to Your Honor that on Saturday next that we have a hearing, at least by Saturday next a hearing on this question of surveilance, or any evening if Your Honor decides in the evening.

THE COURT: All right. I will consider those matters.

MR. SCHIFFER: Your Honor, on behalf of Mr. Parks,

defendant, I would like Your Honor to know and I would like to state for the record that this surveilance of which I have complained up to now is continuing, that it's to a point now, Your Honor, where it is absolutely impossible to prepare a defense in this case.

Now I can't speak with a witness for Mr. Parks without having observation made by government agents and they make no attempt to even hide their identity. No matter where we go in this city they are there.

Now, Your Honor has refused up to this point to direct the government to stop their surveilance. Now, I maintain it is a violation of due process. I have seen it a hundred times I believe already and I tell Your Honor that unless the Court takes some kind of action we are being deprived of our constitutional rights to a fair trial and I ask Your Honor to do something in this matter to help the defendants secure a constitutional fair trial.

We cannot continue the way we have been forced to do because the government, they make representations to the Court here but the surveilance continues. No matter where we go I can't talk to a witness here, Judge. In every real sense they are stealing all our evidence from us, people are scared away from coming here to testify.

I ask the Court to take some steps here to prevent this activity on the part of the government.

End Tk 1
Tk 2 fol.

MR. HAGGERTY: May I say further that it is a ludicrous situation if your Honor will send a representative to the ninth floor of the Patten Hotel. As of yesterday we were compelled to have armed guards stationed in the corridor at both ends of it because there is a side entrance as well and we are now operating with armed guards to guard our property and to keep eavesdroppers out of our quarters where we have to live and have to work.

I say that this is a peculiar picture to the administration of American justice when defendants are compelled to do such a thing.

Further, we have witnesses, the government is very desirous of knowing who the witnesses are, we have to attempt to hide and conceal those witnesses instead of bringing them in as one would ordinarily do in a case and have them in a proper position available and handy; all of this is because of this surveillance.

THE COURT: All right. I believe the Court's comments on yesterday after the noon recess would be equally applicable at this time.

MR. SCHIFFER: May I respectfully urge your Honor that despite the remonstrance made so mildly by the Court yesterday with reference to this surveillance it has continued and is continuing up to this moment.

Now, all we can do is throw ourselves under the

protection of the Court. I know of no other way. Your Honor may have felt at times there was rather vociferous raising of objections as to what was going on. Your Honor only knows that we are only flesh and blood, too. We cannot on the one hand prepare for the next day's session of court and realize we are being observed, you can't talk to your witnesses, you try to act as surreptitiously in preparing your own defense for your client and in the following morning without at least a night's sleep and have your nerves rubbed ragged because of the actions of the government, and your Honor may feel at times that I have been a bit too loud, but that has been a direct result of this surveillance of the government where we cannot even prepare for the following day without this kind of observation.

THE COURT: All right. On yesterday at Page 4142 on the transcript there were some objections made on behalf of Mr. Schiffer and on behalf of Mr. Grady that then there followed immediately thereafter other objections to the extent that the Court did not specifically rule upon those motions. Those motions will be overruled. They were motions for mistrial and motion for dismissal. All right, may we have the witness return?

MR. SILETS: Your Honor?

THE COURT: Yes, sir, Mr. Silets.

MR. SILETS: May it please the Court, the Court

also had another matter under advisement, Page 4102, which the Court has not ruled upon. And that is the--I had made a request that the Court order the witness to produce a black notebook to which he testified to at length and your Honor took that under advisement.

THE COURT: Mr. Silets, I know of no authority that I would have to interrupt the trial and send the witness back down to Baton Rouge, Louisiana.

MR. SILETS: Well, in that case, your Honor, may we have the marshal, ask the marshal to issue to this witness a subpoena duces tecum?

THE COURT: Well, issue your subpoena if you so desire to but the Court has no way--the Court is not--

MR. BERKE: (Interposing) I can't hear, your Honor.

THE COURT: I say, you may issue a subpoena if you desire to issue a subpoena, but it will not be served until after the witness has been examined here and we are not going to interrupt the trial, in other words.

MR. HOOKER: Your Honor, he said he would try to find the book and we have no objection to him making an effort to find it if he has it to produce it.

THE COURT: That is all right, but I am not going to interrupt the trial to send him back to Louisiana.

MR. HOOKER: After he concludes his testimony,

of course.

MR. SILETS: Then, your Honor, on that basis, can we reserve our cross examination?

THE COURT: As to that item, yes, sir.

MR. SILETS: Now, your Honor, you also took under advisement my request that the government turn over the supporting vouchers for the checks that were issued to Mr. Grimsley and Mr. Grimsley's purchase of the cashier's check at the Atlanta National Bank issued to Mrs. Partin. Now, I would like to have the Court rule upon that and ask that the government turn those documents over to the defendants.

End Tk 2
Tk 3 fls.

MR. NEAL: Well, I have already undertaken to give whatever documents there are for transmission to the Court pursuant to the Court's direction and I do not have them now but we will turn over whatever documents there are, if there are any, to the Court pursuant to the Court's direction.

THE COURT: All right. Youwill likewise then have the right to cross examine at such time as those records have been passed upon by the court.

MR. SILETS: I ask the Court to inquire of the government when they anticipate these records to be discovered.

THE COURT: All right. What do you say, Mr. Neal?

MR. NEAL: Well, I can't say, Your Honor.

THE COURT: All right.

MR. NEAL: Whenever the people who have those records, if there are any, can find them.

MR. SILETS: May it please the Court, I think that the Court would use the Court's power to insist upon them doing this within the space of this case.

THE COURT: Oh, yes.

MR. NEAL: It will be within a few days, the next two or three days, I am sure, Your Honor, if there are any records.

MR. HAGGERTY: May it please the Court, when that subject matter, having had one experience with Mr. Neal's

difficulty in finding exhibits, during the Nashville trial for a period of many weeks there was a protestation from the government that they did not have certain records. Six or seven days before poufs were completed the government suddenly discovered that in the FBI control in Detroit that there were 368 pounds of records. Those records were brought down by air and we had to spend two or three nights going through those records with a large crew.

Now, it seems to me if the government had the checks they should also have the vouchers. I am somewhat familiar with government procedure and I know of personal knowledge that a check is never issued without a voucher guaranteeing what purpose it is for, so I think there should be a time limit on this.

THE COURT: Well certainly they should be produced before the government rests its case and as soon as available.

MR. SCHIFFER: Well, Your Honor, on that score by law, as I understand, the controller general's office in all finality secures all of the vouchers to support any payment made by any division of the government of the United States.

May we request through the Court that the prosecution in this case call upon the controller general's office as well and the general accounting office to supply all the vouchers without which that check would not be honored

by the Treasury of the United States, and they must exist and if they are not in the possession of the Department of Justice they may be in the general accounting office or within the control of the general--, controller general.

THE COURT: Well, the Court would expect any pertinent records to be produced.

MR.NEAL: Of course, the Court is not ruling that this is relevant to anything to--

THE COURT: (Interposing) No, these will be submitted to the Court for examination by the Court.

MR. SCHIFFER: We maintain that so far as the Defendant Parks is concerned these records are absolutely vital because the charge has been made by me before that so far as certain of the testimony here is concerned it's outright perjury.

Now, on proper cross examination of a witness on the stand for the government I must have those particular vouchers in writing as to where this man was given money to buy his testimony and I have an absolute right to and I have that duty by my client to inquire and prove that that testimony is bought and that this is not in payment for services.

That is why I need those vouchers.

MR. SILETS: Your Honor, of course, my motion was for the documents to be produced to use or in the alternative, if the Court rules that they are not to be produced or the

government is invoking some cloak of secrecy, for whatever reason they choose, that the indictment be dismissed or a mistrial granted, but my motion is that they be produced to the defense.

THE COURT: Yes, I understand. May we have the jury return?

(Thereupon, the jury of 12 and 4 alternates were returned into open court.)

THE COURT: Have the witness return. Good morning, ladies and gentlemen.

EDWARD GRADY PARTIN,

a witness called at the instance of the United States of America, having been previously duly sworn, was recalled and testified further as follows:

MR. SCHIFFER: May I proceed, Your Honor?

THE COURT: Yes, Mr. Schiffer.

FURTHER CROSS EXAMINATION,

BY MR. SCHIFFER:

Q Now, Witness, you recollect testifying with reference to the matter of the monies given to you by the government and you stated, in substance, "I have a lot of expenses still owed to me by the government." Do you recall that?

A I didn't ever state that the government gave me the money, sir, I said I had money--

Q (Interposing) Will you please answer my question?

A I don't recall what you said.

Q You don't recall testifying that?

A I said I don't recall, sir, as you put it.

Q Not as I put it. I am asking you in substance did you testify, "I have a lot of expenses owed to me by the government." Did you so testify in substance?

A I don't know whether I said "A lot of them", I said I still had money owed to me.

Q You say to your best recollection as you sit here now you don't recollect making that answer?

A Not in the way you put it, no. You made a statement.

Q On Page 4124 did you make this answer in response to a question, "Now, these what Mr. Hooker was talking to you about were those trips that you made to Birmingham and Columbia, Tennessee, to see representatives of the Federal Government, and didn't he ask you, 'Have those expenses been paid to you?'

"And you said, 'indirectly, they were paid to my wife?"

"Answer: No, sir, I have a lot of expenses still owed to me by the government."

A That sounds about right.

End 3

Tk 4 fol.

Q Is that what you said?

A I said it sounds about right. I'm not reading it. I don't know what you are reading. I said it sounds about right.

Q Will you please try to be responsive to my question without giving me a dissertation?

A I can't the way you put it.

Q I will give you the questions, you can answer yes or no.

A Let's see.

Q Did you testify yesterday on that subject?

A I said it sounds about right. You are reading it, though.

Q Now, then, I suppose there will be no complaint from the government that I have misread the record. Would you like to see the record as to what you said?

A I said it sounds about right. That suits me.

Q Well, it is exactly right, is it not?

A I can't swear that without looking at it.

Q I will show you the record then. I show you the answer at line 22 and 23.

A If this is the correct record, yes, sir. It looks like it is correct, sir. That would be correct.

Q Well, it is your present recollection that this is accurate, this record that you just looked at?

A Yes, sir, I said it sounds about right to me when I read it.

Q You said it sounds right, it is exactly right, isn't it?

A According to your record there, yes.

Q Well, this is not my record, this is the record of the court reporter, it is correct, is it not?

THE COURT: I believe he has answered. Let's proceed.

BY MR. SCHIFFER:

Q Is there any correction you want to make in that answer, have you got it down inaccurately, do you want to make a correction?

A You may. I don't.

Q I am asking you. You answer my question and you be responsive, Mister.

MR. HOOKER: Starting out another argument, your Honor.

THE COURT: Let's proceed.

MR. SCHIFFER: Unless he is responsive there will have to be argument, Mr. Hooker.

BY MR. SCHIFFER:

Q Now, tell this jury what these expenses are they still owe you for?

A They would amount to times I were requested --

MR. BROWN: (Interposing) I can't hear him.

THE WITNESS: He said tell the jury.

THE COURT: Well, just keep facing forward, Mr. Partin.

BY MR. SCHIFFER:

Q Now, tell us.

A That would be different trips that I was out of town at the request of government officials.

Q Now, give me the first trip that you made for which they have not paid you your expenses.

A Oh, that was quite a while ago, sir.

Q Give me the first trip for which they owe you money for your expenses.

A I can't answer you exactly, sir.

Q I didn't say exactly. Just describe what that trip is.

A It was a trip to be out of town away from Baton Rouge.

Q What was that?

A I answered you, sir.

Q Was it 1962? 1963? 1964?

A Oh, it would be in 1962, I would imagine. 1963. I'm sorry. If you will wait and let me finish. Last year.

Q '63?

A Yes.

Q 1963?
A Yes.
Q Now, then, where did you go on that very first trip for the government for which they owe you expenses?
A Sir, I went to so many places I couldn't tell you where I went.
Q Did you give them a bill?
A No, sir, I didn't.
Q Then you haven't to this day given them a bill for the expenses?
A They knew where I was at at all times.
Q I'm not asking you what they knew, now, you answer my question.
A I believe I was allowed per diem for expenses, sir.
Q Do you have a list on your person showing what you were putting in for?
A No, sir, I don't.
Q Did you ever submit a bill to the government?
A Not just in verbal conversation.
Q I am not talking about verbal conversation; in writing, did you ever submit a bill to the government for the expenses that you had incurred making a trip on behalf of the government?
A I don't believe so.

Q Well, when you say you don't believe, did you or did you not?

A Sir, you look at the jury and ask me.

Q I am looking at you, did you or did you not submit a bill in writing?

A No, sir.

Q Expenses you incurred?

A Not that I can recall.

Q Would you wait until I finish the question.

A You won't let me.

Q You just wait until I finish the question, did you ever submit a bill in writing for the expenses you incurred on the first trip you made on behalf of the government in 1963?

A Is that all?

Q That is my question.

A No, sir, I don't recall one.

Q The fact is you never did, isn't that right?

A That I can recall, no, sir.

Q That you can recall; what is the second trip you made for the government in 1963 for which they owe you money?

A Sir, I said I made so many of them away from Baton Rouge that I don't recall.

Q You are talking now about trips you made on behalf

of the government?

A I was staying out of the way.

Q I say, you were making these trips for the government?

A At the request of my official.

Q At the request of official of the government?

A The best I can recall.

Q All of this time, of course, you were drawing your salary and expenses of the union?

A With the permission of the membership.

Q I am not asking you that, sir, I'm asking you is it not a fact that all of this time you were drawing your pay and expenses from the union?

A Not expenses for that, no, sir.

Q You were drawing your salary?

A Oh, yes, sir. I was supposed to. A lot of times I was paying it on strike benefits and didn't get none.

Q I am asking you did you draw your salary?

A Not at the time, no, sir, because we were --

Q (Interposing) I'm not asking you the reasons. Would you please answer the question and be responsive?

A I can't.

Q You can't answer it?

A Not the way you put it.

Q Do you mean you don't want to answer it?

A I will if you let me.

Q You listen to the question before you start the answer and we won't have any difficulty.

A You don't want to hear the answer.

Q The second question was, where did you go on this second trip for the government?

A Sir, you want me to answer the question you asked before?

Q Sir, be responsive.

A You have asked me two questions.

Q The question now --

A (Interposing) Which one?

Q Tell us the second trip you made for the government, did you put a bill in for your expenses on that trip?

A Sir, I have told you I don't remember submitting a written bill at any time.

Q At any time?

A That is right.

Q Now, then, in 1963 did your wife receive checks from the government or money from the government which is supposed to be for your expenses?

A Sir, that would be hearsay. I don't know.

Q You don't know, did anybody discuss it with you?

A I was told that it would be taken care of but I don't know.

Q Who told you that?
A I believe Mr. Grimsley did.
Q Mr. Grimsley?
A Yes.
Q Mr. Sheridan ever talk to you about it?
A Of course he spoke to me about it.
Q What was your per diem for expenses?
A It must have been the lowest they had.
Q Pardon me?
A I don't know what it was, it was mighty low.
Q What was it was my question.
A Well, I was paid the lowest they had, I believe.
Q I asked you in dollars and cents what was the per diem you were receiving from the government?
A Evidently you didn't understand me, Mr. Schiffer. I said I never saw the money. That it was hearsay.
Q I didn't ask you that at all, I am asking you now you said before that you were getting a per diem, tell the Court and jury what the per diem was.
A I think it was based on a per diem, sir. I can't swear to any of it. I have never seen any money involved.
Q Are you now saying you want to change your answer that it was not a per diem?
A You haven't never let me answer yet.

Q I'm asking you a question, do you want to change your answer now that it was not a per diem?

A I don't want to change my answer to you on anything. I'm satisfied.

Q Well, I don't think the jury is, so please answer my question.

A You don't want me to talk to the jury.

Q You please answer my question, what was the per diem you referred to that you received from the government for every day you were away on a trip for the government?

THE COURT: If you know what it was, say it. If you don't --

THE WITNESS: (Interposing) Sir, I don't know. I said I understood it was based on a per diem. I have never seen any actual cash. Anything I did I cannot answer the question actually because I never did see it and I don't know.

End 4
4a fls

4A H1 • Partin - Cross

Q So what you are saying in effect is some public official, Grimsley, told you he will take care of your bills. Is that right?

A No, sir, that is not right.

Q He didn't say that?

A Certainly didn't.

Q Did you sign a voucher at any time to the government for these expenses for which they were giving your wife money as you say for you which totalled up to the amount given to your wife at any given time?

A Do you want me to answer it again?

THE COURT: Yes, if you can answer.

THE WITNESS: I said I haven't, I don't ever remember signing a statement, sir, in regard to those.

End 4A

Tk 5 fol.

Q Now, forget about the statement.

A The best I can recall--

Q (Interposing) Did you ever put in a bill or a voucher without signing it by specifying in detail the amounts of money you were out of pocket which the government had to reimburse you for expenses?

A Be verbal if I did, I don't remember, I don't remember writing.

Q It was always verbal with Mr. Grimsley?

A Whoever I would be discussing it with.

Q Well, who else did you discuss this matter with?

A I may have discussed it with Mr. Sheridan, I am not positive.

Q When you say you may have, will you throw your memory back, give yourself your best recollection?

A My best recollection, as I told you 15 times, is Mr. Grimsley.

Q You don't mind telling me the sixteenth time?

A No, sir.

Q Whether or not you discussed--

A (Interposing) Be glad to tell you.

Q Whether you discussed this with Mr. Sheridan.

A Be happy to, sir, to tell you what, sir?

Q Did you discuss the per diem, your expenses and vouchers with Mr. Sheridan?

A I believe Mr. Sheridan was informed how much alimony I paid a month, it's not alimony, sir, I am--I want to recall by that, it's support.

Q It's support?

A For the children, yes.

Q And so that you are now telling us, are you not, that the amounts of money which was given to you by the government was not a per diem or to reimburse you for expenses but the government was taking care of your support of your children and your wife?

A No, sir, I didn't tell you that.

Q You didn't say that?

A I said my understanding was it was based on a per diem.

Q As a result of your conversation with Mr. Grimsley or Mr. Sheridan or both, you have testified, haven't you, here that they were aware of what your support payments were to your family and they were taking care of that?

A That was my understanding, sir, I don't know what--

Q (Interposing) Now, when you say your understanding, was that your understanding after a conversation with them about that subject?

A Well, I would imagine so, sir, wouldn't be any other way I could get it.

Q So that was the only way you had it. Now, then tell us about the first trip you made for the government and where that was to in 1963?

A Sir, I don't remember. As I said, it was so many of them I can't recall because there was nothing significant about them, just be away from Baton Rouge.

Q And when was the fourth trip? How many trips were there? I withdraw that question. How many trips do you say there were?

A Sir, I don't know, numerous trips.

Q Well, give us an approximation.

A Oh, I would have been gone off and on 60 or 70 days, somewhere along in there, I am not positive of exactly how many days.

Q And 60 or 70 days, did you say?

A I believe you understood me.

Q And how many trips was that,60 or 70 trips?

A No, sir, it wouldn't have been 60 or 70 trips.

Q Well, how many trips would cover the 70 days?

A Sir, I can't answer you.

Q Give us--

MR. HAGGERTY: (Interposing) Your Honor--

MR. SCHIFFER: (Interposing) Pardon me.

MR. HAGGERTY: Either I can't understand or I don't hear but I don't know if this witness said 6 or 7 days

or 60 or 70 days.

MR. SCHIFFER: Sixty or 70 was what the witness said.

THE COURT: All right.

BY MR. SCHIFFER:

Q Now, tell us how many trips you made which totaled 60 to 70 days.

A I would guess six or eight or ten trips, I don't know.

Q On your first trip which you made on behalf of the government, where did you stop or stay or sojourn?

A I believe I have told you, sir, I don't remember all of the places I were, I was everywhere.

Q When was this second trip, where did you stay on the second trip away from home?

A I may have to go back there again, I don't remember.

Q Any trip do you remember where you stayed any single time?

A Oh, yes, I have stayed in New Orleans, I have stayed in Birmingham, I have stayed in Tennessee. You asking me the question or he asked me, I heard another question over there?

Q Well, just don't interfere with the court procedure.

A Someone asked me a question.

THE COURT: Let's don't be--

Q (Interposing) You answer the question.

THE COURT: Counsel that are not conducting the examination do not be stating questions. The Court heard someone state a question also.

BY MR. SCHIFFER:

Q Tell us where else you stayed.

A Sir, I can't recall to be specific all of the places, there was so many of them.

Q All right. Let's take the first one you mentioned. You said New Orleans, is that right?

A I just put it in there by a name and city.

Q Let's take it in the order in which you gave it, New Orleans. What hotel or motel did you stay at in New Orleans?

A I usually try to cover them up, I would get one that was remote.

Q Did you pay your bill?

A Oh, yes.

Q At the hotel or motel?

A Oh, yes.

Q Did they give you a bill?

A Oh, no, not--the hotels I stayed at I told them I would request them later if I needed them.

Q Did you pay when you left the hotel?

A Oh, yes.

Q Or motel?

A Definitely.

Q You got a paid bill?

A No, sir.

Q Or a paid receipt, did you not?

A No, sir.

Q You never took a paid receipt?

A I didn't want it on me so anyone would know where I was at.

Q I see. So when it came to the end of that trip did you make a tabulation, a show that you had paid so much, whatever it was for that night's lodging or two nights' lodging or whatever it may have been and giving that to Mr. Grimsley or Mr. Sheridan to show that you actually had an expense?

A They was in touch with me most every day, sir, they knew.

Q I didn't ask you that. I asked you, sir, and please respond to the question, did you make a tabulation of the expenses you had had when you were in New Orleans that you are talking about of your hotel expenses and turn that in to Mr. Grimsley or Mr. Sheridan for reimbursement of your expenses on that trip?

A Your Honor--

MR. NEAL: (Interposing) Your Honor, he has gone over this. The witness testified he was paid for expenses on a per diem basis, so much money a day to cover expenses. This is a common way of covering expenses, I believe the government does it this way.

MR. SCHIFFER: Objected to, your Honor.

MR. NEAL: I believe the International Brotherhood of Teamsters does it.

MR. SCHIFFER: This is testimony in front of the jury.

THE COURT: If the witness knows he can answer, if he doesn't know he can so state.

MR. SCHIFFER: This is something in his own peculiar knowledge, your Honor. He can't say he doesn't know, he is the actor in this very incident.

THE COURT: The Court has stated its position, proceed.

BY MR. SCHIFFER:

Q Now, would you answer the question?

A I didn't understand the question as you put it the last time.

Q Did you turn in a compilation of any kind?

A I have told--

Q (Interposing) Of your expenses?

A I have told you.

Q Will you finish with the question--

A (Interposing) You have asked me three or four times. I know the question by heart.

Q You remember my question now. You just said you didn't remember it.

A I remember it by heart.

Q Well, now, listen to the question then so you can answer it intelligently, truthfully, I hope. Did you at any time make a compilation?

THE COURT: Disregard--

Q (Interposing) In which you turned--

THE COURT: (Interposing) Just a moment. Just disregard that remark of counsel.

BY MR. SCHIFFER:

Q Did you at any time after that trip that you speak of to New Orleans make a compilation of your expenses for that particular trip and turn that in to any official of the government of the United States to justify your expenses out of pocket that you wanted reimbursement for?

A I said before I don't ever remember writing a written report in and giving them a written report, I don't recall any that I ever wrote.

Q All right. Let me ask you this question: On the first $300 check that was given to you for your expenses

by the government of the United States, will you explain to this Court and jury all the items which went in to make up this even amount of $300 as expenses?

A You said explain to the jury. I will try to. That was the amount--

MR. BERKE: (Interposing) That doesn't mean he has to turn where we can't hear him, your Honor.

THE COURT: Yes. When they say "tell the jury," disregard the instructions of the attorney, Mr. Partin, and just speak straight forward.

A Yes. Now, who arrived at what, sir? I didn't file where?

Q Did you forget the question?

A Yes, sir, I believe I did.

Q All right. Let me repeat it to you. You remember you testified to a $300 check that was given to your wife to cover your expenses on that first check.

A No, sir.

End Tk 5
Tk 5A fls.

Q Now, tell us -- now, just a moment, please -- now, you tell us, tell the Court and jury exactly what amounts went up item by item to add up to exactly $300 for your expense account on that trip.

A Sir, I have never told you that I saw a $300 check or I knew that $300 was paid, I said it was my understanding.

Q It was your understanding?

A I haven't seen it.

Q You know it was paid, do you not?

A I couldn't swear to it.

Q Didn't the government tell you they paid it?

A It was my understanding it were.

Q All right. It was your understanding?

A You have to ask them about it.

Q Now, it's your understanding. Did you want to make yourself a party to a crime to defraud the Government of the United States of the $300 if you realized or thought it was false?

A I don't think it was false.

Q You don't think it was false?

A No, sir.

Q You tell the Court and jury now as to the first $300 check, as to the first $300 payment, the specific items which add up to $300 on that trip, your out-of-pocket expenses,

A You keep saying I said it was a $300, I can't swear to any amount on there, I don't know, I have never seen it, sir.

Q Well, do you mean then after you had the conversation with some officials of the government and you knew they were going to take care of the support of your family and that they were going to cover your expenses in that fashion that you didn't know that as a matter of fact your expenses totaled $300 that they were going to give to your wife?

A No, sir, I didn't know, that was up to them to compile that and not me.

Q Oh, they. Then you never had any hand at preparing your expense accounts, somebody else did that?

A You are putting words in my mouth that were --

Q (Interposing) I am going by your own response.

A No, you are not.

Q I am asking you, isn't it a fact then that you are testifying now that at no time had you put in an expense account itemizing your expenses but that somebody else did that for you?

A I said that verbally I discussed with them, I did not put anything in writing that I can recall.

Q Will you be responsive to my question?

A To you I can't.

Q My question is this: You never then, as I under-

stand your testimony, at no time ever compiled a list of your expenses but that that list of expenses was made up on your behalf by someone else?

THE WITNESS: Your Honor, should I answer him again?

BY MR. SCHIFFER:

Q I didn't hear the answer to the question yet.

A I said, sir, I have never filed a written report that I can recall, verbally I have discussed it with them. I couldn't swear to any amount that may have been paid to her because I didn't see it.

Q I am not asking you what you saw.

A Well.

Q You have testified that the government was going to take care of your expenses, have you not?

A No, I did not.

Q You have never testified here the government was going to pay your expenses?

A I didn't say expenses as such, I said on my payments to my wife for $300.

Q Did you not testify, did you testify here yesterday that the government owed you money for your expenses which they have not yet reimbursed?

A I did do that, I haven't been paid for those, sir, I wouldn't --

Q (Interposing) Now, will you tell us then what is the total amount that they still owe you?

A I don't know, sir.

Q You mean there is money owed to you for out-of-pocket expenses and other items and you don't know what the government owes you?

A I don't believe I do, sir, I haven't discussed it with them.

Q Did you file an income tax return for the year 1962?

A Oh, yes, wait a minute.

Q In your income tax return for the 1962?

A Do what?

Q In your income tax return for the year 1962, which you made out in 1963, did you declare the monies you received from the Government of the United States in any fashion in connection with this?

A Sir, I wouldn't have received any money from them.

Q I am asking you.

THE COURT: Just a moment. Let him answer. You asked him if he received money in 1962 which he reported in 1963. Let him answer.

BY MR. SCHIFFER:

Q For the year 1962 I meant, of course.

A Well, I didn't get any that I can recall in '62,

I wouldn't have had any purpose.

Q Did your wife receive any in 1962?

A Not that I know of, sir.

Q Pardon me?

A Not that I know of.

Q Not that you know of?

A No, sir.

Q Have you discussed it with any official of the government?

A It wouldn't be any reason to for '62.

Q Do you have a compilation of all of your income for the year 1963?

d 5a
t fls

A I haven't never gotten it from the auditor, no, sir. I have been busy up here.

Q Well, you make out an income tax return, do you not?

A One year I didn't, I didn't draw a salary.

Q I'm talking about 1963, did you earn enough to file a return?

A I'm going to file one.

Q Going to file one, do you make a joint return with your wife?

A I don't know whether I will or not. But I will give you a copy. I haven't discussed it with her.

Q Now, then, do you have a compiliation so that you can prepare accurate income return for 1963? Do you have any record of what you or your wife received from the government?

A Sir, I don't have any now but my understanding is it is on a per diem basis.

Q I'm just asking you to answer my question now. Do you have a compiliation or record showing for the year 1963 all the payments of money the government pays to you or your wife in connection with your testimony?

A No, sir, but I'm sure the auditor will before the--

Q (Interposing) I'm asking you, do you have such a compiliation?

A Sir, I haven't even gotten my W-2 forms.

Q Do you know of your own knowledge, of your own knowledge now, as to whether you have a record concerning payments made to you or your wife in connection with what you are testifying here today?

A I don't have it here now that I know of.

Q Do you have it at home?

A I doubt it, sir.

Q Then you have no record at all of how much the government may have given your wife for the support payments or what they might have given you personally, is that correct?

A They haven't given me anything personally, sir.

Q I'm asking you, you have no such record?

A Not that I know of.

Q I didn't get your answer.

A I said not that I know of.

Q All right. I'm going to show you from Exhibit No. 121 for identification, I show you from the four checks attached to this exhibit, the reverse of a check dated July 15, 1963, drawn on the First National Bank, Atlanta, dated July 15, 1963, made out to Mrs. F. G. Partin for $700.00. And ask you whether you recognize the signature of the party who endorsed this check?

A It looks like my wife's sir.

Q Do you recognize it as her signature?

A As best I can--

Q (Interposing) You have seen her signature before?

A Well, it has been three years since I saw it. Looks the same as I saw it, looked that way the last time I saw it.

Q Now, on this check of July 15, 1963 the proceeds of the government check, paid over to your wife, before it was paid over to your wife, you had a conversation with Mr. Grimsley or the others connected with the government, did you not?

A Yes, sir, I would imagine I did.

Q I will ask you to look at Exhibit No. 121 for identification, at a check on the First National Bank of Atlanta, to Mrs. E. G. Partin, $300.00, and ask you to look at the endorsement on this check and tell us whether you recognize the handwriting.

A It looks like the same, sir.

Q Do you recognize that as your wife's signature?

A I couldn't swear to it. I said it looks the same. Looks like it.

Q And as to this signature you haven't seen that in three years.

A Well, it has been about three years since I have separated from my wife so I couldn't swear to it.

Q I show you a check on the First National Bank,

Atlanta, dated September 12, 1963, this is Exhibit No. 121 for identification, made out to Mrs. E. G. Partin for $150.00 and I ask you to examine the endorsement and tell us whether you can recognize it, identify it.

A It looks the same, sir.

Q And to your best knowledge you would say that was your wife's signature?

A Yes, sir, if I had to guess, sir, I would say it was. Just from memory.

Q I don't say, I'm asking you to identify it.

A Sir, I couldn't swear to it. It looks the same.

Q And from Exhibit No. 121 for identification I show you a check on the First National Bank, Atlanta, dated November 14, 1963 to Mrs. E. G. Partin and I ask you to look at the signature endorsed on the back and tell us whether you can identify it if you will.

A Just looking at it, it looks the same to me. Just looking at it.

Q Now, in connection with these four checks which you just examined, those four checks represent monies given to your wife as a result of your understanding with the government officials, is that correct?

A Yes, sir, that is about correct.

Q And the understanding was that you had with the government officials was that it was to take care of the

support of your family.

A That was my understanding, yes, sir.

Q Now, could you advise this court and jury the best approximation you can make from your own personal affairs as to how much the government still owes you?

A If I had to guess I would say $300.00 to $600.00.

Q $300.00 to $600.00?

A Just guessing, yes, sir.

Q That is just a guess?

A Yes, sir.

Q And this three to six hundred dollars will also go to your wife, will it not, under your understanding with the government?

A No, sir.

Q That would go to you directly?

A Yes, sir.

Q And at that point when it came to you directly, your family would do without the support then?

A Oh, I've been paying them quite awhile, sir, myself.

Q I call upon the government to produce any other checks relative to the matter we are inquiring into, Your Honor. Up to date.

MR. NEAL: Your Honor, we have turned over to the Court all the checks as Your Honor--

THE COURT: (Interposing) Four checks that have been referred to here were all the checks that were turned over to the Court by the government. All right.

MR. SCHIFFER: I make request upon the government at this time to turn over to the defense all writings of any nature in connection with any payments made by the government to this witness or his wife together with including any vouchers or statements or bills or whatever name, from this witness to the government, to justify the expenditure by the government of the United States of these sums of money.

MR. HOOKER: Could we see those checks, if Your Honor please? Excuse me, I didn't know you were looking at them, Dave.

MR. NEAL: May it please the Court, that was just, of course, Mr. Schiffer's remarks for the jury. We have been into this out of the presence of the jury. The government has nothing to hide. They brought this out on direct.

THE COURT: Yes, sir, this matter was discussed and the Court ruled upon it and sustained the request.

MR. NEAL: I would like the Court to instruct the jury and Mr. Schiffer not to go over this again.

THE COURT: The jury will be so instructed.

MR. SCHIFFER: I believe the remarks of Mr. Neal are calculated to prejudice this jury against me. I did nothing improper and I absolutely resent his remarks and I

ask that they be stricken.

THE COURT: Well, disregard the remarks of both counsel, ladies and gentlemen.

MR. HOOKER: These are all the checks, if Your Honor please, I know anything about.

Two for $150.00 each.

And three for $300.00 each.

THE COURT: Four checks are there, Mr. Hooker.

MR. HOOKER: If Your Honor please, there are four checks from the government but the $300.00 on two different occasions was divided in checks of $150.00.

MR. SCHIFFER: Objected to, Your Honor. The record speaks for itself concerning--

THE COURT: (Interposing) All right.

MR. SCHIFFER: All right, if you want to take the stand, Mr. Hooker, and then do so.

MR. HOOKER: I will tend to my own affairs about that.

MR. SCHIFFER: You tend to your own affairs and I will attend to mine.

MR. HOOKER: I will be glad if you would do that.

THE COURT: Counsel will stop this matter of talking among themselves.

MR. SCHIFFER: This is all calculated move, Your Honor.

MR. HOOKER: We object to any such statement and I think it is about time that this lawyer be told to have some courtesy in this courtroom.

MR. SCHIFFER: I will extend the courtesy to any lawyer who extends me the same, but when I feel that he is imposing upon my client nobody is going to tell me I can't talk up about it and address the court.

THE COURT: Both attorneys will obey the instructions of the Court.

MR. SILETS: May it please the Court, I would like to move for a mistrial or a mistrial based upon this colloquy of Mr. Schiffer and Mr. Hooker and especially based upon the remarks of Mr. Hooker, I don't think this atmosphere that has been engendered by this colloquy, I don't believe the Defendant Dorfman can obtain a fair trial. I move for a mistrial.

THE COURT: Overruled.

MR. BRANSTETTER: Same motion as to Defendant Campbell, Your Honor.

MR. GRADY: I would like the record to show that Mr. Tweel moves for a severance.

THE COURT: Overrule all motions. Ladies and gentlemen of the jury, you will disregard as I have instructed you, disregard the arguments of counsel.

End Tk 6

Tk 7 fol.

MR. SCHIFFER: Pardon me, your Honor. May I see Exhibit 100?

BY MR. SCHIFFER:

Q You recollect your testimony in this case with reference to what you would testify that you said happened on November 7th of 1962?

A I never said anything happened on a certain date, sir.

Q Did you testify as to anything occurring on that date at all?

A I never specifically spelled out a date, sir.

Q Does the date November 7th, 1962, refresh your memory?

A That date as such doesn't unless it could be brought up to date like all of it.

Q I just asked you, does that date refresh your memory?

A Not in particular unless the events were put in order.

Q All right. On that date was the trial in Nashville in progress?

A I think so, sir.

Q On that date did you speak with the Defendant Hoffa?

A I would guess I did.

Q You would guess you did?

A If I was there I would guess I did.

Q Well, when you say you would guess you did, is that a positive statement on your part?

A Sir?

Q Or are you sure?

A Can I answer you now?

Q I asked you a question.

A Which one do you want me to answer?

Q The question I asked you without qualification.

A No, sir, I can't swear to that date, no, sir, I can't.

Q Unless you are shown the hotel bills, then you can't swear to anything, is that correct?

A Unless -- unless it was presented as it was here where I can remember, it's jumbled so in the last few days so I don't know whether I am going or coming, I don't believe.

Q Now, you don't know whether you are going or coming?

A The way you talk.

Q Right now you don't know?

A I believe --

Q (Interposing) All right. Now, let's see if you know whether you are going or coming.

A Okay.

Q I will ask you some more questions. Did you have any statement -- did you make any statement at any time in November, in the first week of November, concerning a conversation with Mr. Hoffa concerning anything related to this case?

A Sir, if you will put the bills out here I will answer you.

Q You can't even answer that question without having the bills in front of you?

A Well, I am -- I am almost sure I did, but I can't swear to it. You are so tricky this morning until --

MR. BROWN: (Interposing) Your Honor, I object to those side --

MR. ALEXANDER: (Interposing) We note an exception.

THE COURT: Disregard the statement of the witness in that respect.

MR. SILETS: Your Honor, could we have a rule by the Court? He has been admonished, I think I have kept a tally here of no less than 25 times.

THE WITNESS: I am sorry.

MR. SILETS: Apparently it has made no effect upon him at all. Could the Court admonish the witness to answer as he knows he should?

THE COURT: Well, just answer. Listen carefully to the question and answer each specific question; do not

volunteer information.

THE WITNESS: Yes, sir.

BY MR. SCHIFFER:

Q How many days were you actually in Nashville in October, November, and December of 1962?

A I'd have to look at the records.

Q I didn't get your answer.

A What?

Q What did you say?

A I said I would have to look at the records.

Q You wouldn't know that except if you looked at the records, is that correct?

A Certainly I couldn't swear to it.

End 7
7a fls

Q Now, how many times in October, November and December did you actually speak with Mr. Ewing King?

A Just about every day,I would guess.

Q Was that how you have testified, that it was about every day that you spoke with him?

A Well, usually he was there every day.

Q And how many times did you speak with him about--well, let's call it what you called it, jury tampering, how many times in October, November and December?

A I'd guess anywhere from six to twelve, I was just guessing, I can't--

Q (Interposing) Would it be closer to twelve?

A I said I answered you, sir, I answered.

Q I ask you now would it be closer to twelve?

A I can't recall exactly what it would be the closest one to, I recall the event, sir.

Q And how many times did you speak with Mr. Tweel about this alleged jury tampering that you have testified about?

MR. NEAL: Your Honor, I object to that as being repetitive.

MR. SCHIFFER: It's not repetitive. I never asked it.

THE COURT: Overruled.

MR. NEAL: Well, certainly this counsel shouldn't

be allowed to go into other cross examination conducted by other counsel as to their clients, it's repetitive, I thought it was.

THE COURT: Overruled, proceed.

BY MR. SCHIFFER:

Q The question, Witness, is how many times did you talk with Mr. Tweel in October, November and December of 1962 about what you alleged and called jury tampering?

A It would be with he less than anyone else, I would say three to four times at the most.

Q Could you fix it with any sense of definiteness?

A I believe that's pretty definite, three or four times.

Q Three or four times. It couldn't be more or it couldn't be less?

A I don't think it couldn't be, I am just guessing, sir, I said three or four times.

Q Then you are not testifying under oath as to the exact truth, you say you are guessing?

A Well, I can't swear to the number of times I spoke to him, I may have spoke to him in the hallway, I may have spoke to him in the lobby.

Q Well, how many times did you speak with Mr. Dorfman in 1962 about this alleged jury tampering?

A I would guess a few more times than him.

Q Well, how many is a few to you?

A Well, to the best of my ability I can't tell you exactly how many.

Q Well, you said a few more times. How many would you want to add to the four?

A Less than Mr. King, I will put it that way.

Q Well, you have just testified that you spoke three or four times with Mr. Tweel. Now, you spoke with Mr. Dorfman a few more times. Now, how many would you add on to represent what you mean by a few?

A To the best of my recollection it would be four or five times then.

Q Four or five times?

A Just put it that way.

Q How many conversations did you have with Mr. Hoffa concerning the alleged jury tampering in 1962?

A It would be more than them, I had a lot of conversations with him so I couldn't tie them down, I had plenty of conversations with him.

Q Well, would you approximate?

A No, sir, because when I was guarding his door he would tell me a lot of things that didn't pertain to the jury.

Q Did he tell you a lot of things? I am talking about the alleged jury tampering, Witness.

A I would just guess six or eight times, just guessing on actual facts that was something turned out to result from it.

Q Then it actually would be less than that you spoke with Mr. Hoffa than you spoke with Mr. King?

A Oh, yes, I spoke less with him concerning the actual tampering.

Q Uh-huh. And if I told you that you were actually, in accordance with your hotel bills, you were in Nashville for a total of 32 days, would that sound about right to you?

A Unless I could look at them I couldn't tell you.

Q All right. I will represent to you that I counted them and it's 32 days.

A I don't take your word for it.

Q You don't take my word?

A No, sir.

Q Then suppose we work around it this way, you were in an out of Nashville October, November and December of '62, isn't that right, by your own testimony?

A Yes, sir.

Q You had conferences, you have testified, or talked on telephone, making reports to Mr. Sheridan, about every day you were there, is that correct?

A I have answered that, sir, yes, sir.

Q Now, would you tell us the entire time you were

in Nashville, October, November and December, over and above these 11 or 12 times that you spoke with King, Mr. Hoffa, Mr. Dorfman, or Mr. Tweel, what were you reporting about to Mr. Sheridan?

A Well, it would be things would seem important maybe to me that didn't turn out to be important, remarks that they would make that evidently didn't turn out to be anything.

Q They didn't turn out to be anything at all?

A Evidently they didn't.

Q And so you constituted yourself a kind of a story teller, anything you heard anybody say you promptly reported that to Mr. Sheridan but after you reported it to Mr. Sheridan then it turned out that what you had told Sheridan or what you had heard had no significance at all, isn't that a fact?

A Sir, can I answer my qualification? I can't answer him yes or no.

Q My question to you is, isn't it a fact many of the things you heard then which you reported to Mr. Sheridan turned out to be of no value and had no relationship at all to any degree of importance connected with an alleged jury tampering; now, isn't that what you have just said?

A I can answer you if I can qualify my answer.

THE COURT: Just answer any way you can.

A Yes, sir. I don't know how many, Mr. Sheridan

would have to tell you how many turned out to be of any importance, I don't know that, I can't speak for him. I know of the major ones that turned up in this trial here and in the questions I was asked in between that I thought must have had a bearing on it and according to the newspaper reports--

Q (Interposing) Well, forget the newspaper report, you were there yourself, you were better than the newspaper, weren't you, you were on the scene.

A I am talking about after the indictment, sir.

Q Oh, I am talking about before now. Now, you listen to my questions. I am talking about October, November and December, '62.

MR. NEAL: Your Honor--

Q (Interposing) I know I am speaking of that term and don't bring in extraneous matter.

MR. NEAL: Your Honor--

Q (Interposing) Please respond to the question.

MR. NEAL: Your Honor, it's so obvious this witness is doing his best to respond to the question.

MR. BROWN: I object.

MR. NEAL: I object to this manner of cross examination.

THE COURT: Well.

MR. BROWN: Your Honor.

THE COURT: The Court will give the instructions to the witness and let's have the attorney cease giving instructions to the witness as to how he should answer. Proceed.

MR. SCHIFFER: Well, I ask for the aid of the Court then with this recalcitrant witness who refuses to abide your Honor's own instructions to him.

THE COURT: Just state your question.

BY MR. SCHIFFER:

Q Then you just testified, have you not, that you were asking questions and getting responses to some questions, you would transmit that to Mr. Sheridan but that there were a lot of these things you transmitted were worthless, isn't that correct?

A No, sir, I said that things that I gave to him that would fit in, evidently a bunch of days or several days, fit into one picture, I would guess from the looks of the things, and so it wasn't up to me to judge whether they were of a nature that he needed or not, it's things--

Q (Interposing) Let me ask you this question.

A Sir, could I finish answering?

Q Bearing in mind the number of times you spoke with the defendants, as you said to Mr. King, Mr. Hoffa, Mr. Dorfman and Mr. Tweel, for all these other days that you were in Nashville, what stories were you reporting to Mr. Sheridan?

THE WITNESS: Your Honor, he didn't let me finish the first question he asked me. I was trying to qualify my answer and he cut me off.

MR. SCHIFFER: Your Honor, I ask for a response to this question. We'll never get anywhere. Never complete it.

THE COURT: Go ahead with his question, Mr. Partin.

THE WITNESS: Sir, I don't know of any stories I have gave. I didn't go up and say that Mr. King was being followed around and around by Mr. Vestal or something like that.

BY MR. SCHIFFER:

Q I am asking you what stories you gave to Mr. Sheridan.

A It is obvious, sir, but I don't know how to answer you on that because I told you I gave him anything that seemed of any importance. I didn't go up and tell him that they asked what time it was or that the attorneys was worried about the case. Or something like that. I mean that wasn't the point.

Q And the number of days that you were there that you made these reports daily to Mr. Sheridan, other than those on which you had conferences, you say or a talk with any of the defendants, the subject matter which you reported to him proved to be worthless, isn't that correct?

A I didn't say that. I said it was up to them to

evaluate that.

MR. NEAL: If Your Honor please, this question has been asked and asked at least three times.

THE COURT: Sustain the objection.

MR. SCHIFFER: I haven't heard the answer yet, Your Honor.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q I'm going to pin down, bend down the top of the Exhibit No. 100, the hotel bill, and I will ask you without looking at the top now, whether you will tell the court and jury if there is a check-out time shown on this hotel bill? When you left the hotel and paid your bill.

A I don't believe I see it, sir. It looks like the check-in time. I don't believe so.

Q May I point to something on the exhibit, Your Honor?

THE COURT: All right.

THE WITNESS: Maybe it is on this. That is November 7. In the A. M., but that shows--, that would be--, let's see--, yes, sir, I believe that would be the time. That looks like the check-out time, yes, sir.

BY MR. SCHIFFER:

Q Would be November 7, A. M., 9:21?

A Yes, sir.

Q Did you take a plane on that date to go anywhere?
A Once or twice I drove part of the way. The rest of the time I was on a plane. I couldn't swear to whether I was on a plane or not onthat day.
Q Did you testify to Mr. Hooker and to several counsel who have already cross examined you, as to whether or not you drove or took a plane that day somewhere?
A No, sir, I believe that was later on when I went to Dallas if you are speaking of Dallas.
Q You just looked at this hotel bill, haven't you?
A Yes, sir.
Q I will show it to you again with the top folded down and I ask you not to open it.
A I won't open it.
Q Tell us whether or not on that date you took a plane or you drove anywhere away from Nashville.
A I either drove or took a plane. At one time I drove out in the car twice. The rest of the time I was on a plane. So I couldn't swear to this date on there.
Q I don't think you followed my question.
A I must not.
Q I mean away from Nashville, away from Tennessee, did you on that date travel anywhere outside the confines of Tennessee by plane or car?
A I would guess I left out of Tennessee because I

usually didn't drive to stay here.

Q Well, now, look at the hotel bill which you say you need to refresh your memory and I'm asking you one question, look at that hotel bill, tell us whether or not on that date you took an airplane away from the state of Tennessee to go anywhere else?

A Sir, it don't show anywhere on there whether I drove or took a plane.

Q Well, haven't you testified sometime and time and again that you can't testify as to dates and events unless you look at a bill from the hotel which are marked as exhibits here?

A No, sir, I have not.

Q Haven't you said that?

A You won't let me answer you again.

Q I ask you now, haven't you so testified time and again?

A Are you through?

Q I'm asking you a question.

A Are you through?

MR. SCHIFFER: Your Honor, I demand an answer to that question.

THE COURT: Yes, sir.

THE WITNESS: Sir, you will have to put all--

BY MR. SCHIFFER:

Q (Interposing) I want an answer to that question, Your Honor. Has he not so testified time and again?

THE COURT: You may respond to the question.

THE WITNESS: Sir, I have said to the best of my ability when the things was lined up I could half way put the events in line when they happened. I couldn't swear to the dates, the times or the places.

8A

BY MR. SCHIFFER:

Q Then I ask that when you line up these hotel bills in their sequence it actually provides a code for you to remember what your testimony was and what it should be, isn't that right?

A I will answer you with a qualification, sir.

Q I don't want a qualification, I asked you.

A I can't answer you without it.

Q I asked you a question and I want a responsive answer.

THE COURT: Yes, sir, answer the question.

BY MR. SCHIFFER:

Q Isn't it a fact that when the hotel bills are lying down in front of you and they are in sequence then you can testify? But as to any particular hotel bill which is given to you that you cannot examine the top of you cannot testify of your own knowledge under oath as to what happened on any particular day represented--

A (Interposing) Yes, sir.

Q Represented by anything indicated on that hotel record?

A Yes, sir, you got one I can get pretty close to because it was unusual. That is when I stayed in the James Robertson Hotel.

Q I'm asking you about this particular exhibit and I'm asking you to indicate at this time whether or not you have testified in connection with taking a trip away from the state of Tennessee by car or airplane?

MR. NEAL: Your Honor--

THE COURT: (Interposing) Sustain the objection. Just move along.

BY MR. SCHIFFER:

Q Have you or not already testified under oath concerning a trip connected with a date on that exhibit before you right now?

A I may have testified that I thought it fell within those dates. But I haven't specifically said I swear to any date on that, sir.

Q Didn't you tell Mr. Hooker very positively that you had all the hotel bills in front of you, yes, I see this hotel bill, this is what happened, and I see this hotel bill and this is what happened. See the third bill and the other things happened, didn't you so testify?

A No, sir, I didn't.

Q You didn't mean to indicate that to the jury?

A I didn't say that.

Q Well, then, you look at this exhibit without folding over the top, and I ask you is there anything on that card that is visible to you which will indicate what you have testified to in connection with November 7th, as to whether or not you took a trip away from the state of Tennessee by car or by plane?

MR. NEAL: Your Honor, I object to this folding over the top and implying to the jury there is something on these bills. We have requested time and again, time and time again, that these bills be submitted to the jury.

THE COURT: Well, the Court has allowed you to introduce them. If you want to submit them to the jury, you can.

MR. NEAL: I didn't know that was the ruling, Your Honor. Very well, if that is the ruling.

THE COURT: For that limited purpose at the time of the examination three or four days ago.

MR. BRANSTETTER: May it please the Court, I believe they have been passed to the jury, haven't they?

THE COURT: No, they have not been passed to the jury.

MR. HOOKER: We would like for the jury to see

them, if Your Honor please.

MR. SCHIFFER: When I finish my cross examination maybe we can pass them out. At this point, I just want to make sure that we have an uninterruption as to responsive answer to the question I put to the witness.

MR. HOOKER: Well, now, we think if Your Honor please regardless of whether he wants an interruption or not, in view of this question about something being on the top of these bills the jury ought to be permitted to see the bills now.

THE COURT: All right, I will allow that.

MR. SCHIFFER: Your Honor, may I say, I want to finish my point on cross examination, as soon as I finish with this bill I have no reason why they should not see it but before it is taken away from him he has to examine it to answer my questions, you see.

THE COURT: All right, proceed with your examination.

BY MR. SCHIFFER:

Q Would you answer my last question?

THE COURT: State your last question. The Court has forgotten it.

BY MR. SCHIFFER:

Q With reference to that question, Your Honor, look at the exhibit and on the face of that exhibit, with the top

folded down is there anything on there which indicates to you whether or not you left the state of Tennessee to any other point by automobile or airplane in accordance with your prior testimony in this case?

A Yes, it shows I left the state evidently. I can't swear how I went or when I left.

Q Now, would you kindly indicate to the jury what on that card shows that you left the state of Tennessee?

A Nothing on the card. My memory tells me that most of the time I left the state of Tennessee every time I left here.

Q Didn't you just testify just seconds ago that something on there which shows you left the state of Tennessee?

A I said the date would show that I more than likely left the state because I wouldn't hang around up here when I checked out.

THE COURT: Mr. Schiffer, do not interrupt the witness every time.

MR. SCHIFFER: I thought he finished, Judge.

THE COURT: He hasn't been able to finish the last two or three questions.

MR. SCHIFFER: When he starts becoming unresponsive, Your Honor, I would like the witness stopped. He has to obey the mandate of the Court.

THE COURT: Well, proceed.

THE WITNESS: Sir, I can't swear exactly where I went. I said if I checked out of the hotel I left the state. That would be my guess on it.

BY MR. SCHIFFER:

Q Now, you know that you already testified that you went to a definite place when you checked out of the hotel on November 7, did you not?

A I said I would guess I left out and went home. Or I left Tennessee. That is all I know. I could have been in New Orleans. I could have went anywhere.

Q Do you have any airplane records available for the year 1962 of these trips you have made?

A No, sir, I don't have them.

Q Did you ever have such a record?

A Yes, sir.

Q Did you give them over to the government?

A I believe they have them.

MR. SCHIFFER: Well, Your Honor, we should like to make demand upon the government to now turn over to us airplane records for this witness for the year 1962, in October, November and December, at this time.

End Tk 8

Tk 9 fol.

MR. NEAL: I had them available yesterday, your Honor, and offered them.

MR. SCHIFFER: I haven't heard him offer.

MR. BERKE: You never offered that.

MR. BRANSTETTER: May it please the Court, counsel is injecting time and again matters in the record that shouldn't be here. I move for a mistrial on behalf of the Defendant Campbell. These records were not offered on yesterday or any other day according to anything I recall.

MR. NEAL: I recall --

MR. BRANSTETTER: (Interposing) Counsel gets up and immediately preceding this he was up making remarks that were prejudicial.

MR. NEAL: I call on Mr. Silets to ask if I didn't have these records, Mr. Hooker and I here handed them to him and said, "I don't think these are all but you are welcome to them."

THE COURT: Well, let's proceed rather than having all of these conversations.

MR. NEAL: I have no objection --

MR. SCHIFFER: (Interposing) May we have them marked for identification at this time, your Honor?

THE COURT: Yes.

MR. SCHIFFER: I see we are near a recess anyway. We might be able to go over them during the recess.

THE COURT: Let's proceed.

MR. NEAL: These don't purport to be all.

MR. HOOKER: We want the jury to see these hotel records.

MR. SCHIFFER: Your Honor, we wanted all of them.

MR. NEAL: We don't have them all.

THE COURT: The exhibits which the government may have in regard to the plane trips --

MR. NEAL: (Interposing) May we turn them over, all we have?

MR. SAULPAW: Exhibit No. 123.

MR. HOOKER: Just going to make them all one collective exhibit?

THE COURT: Collective exhibit for identification.

(The airplane tickets referred to above were marked Collective Exhibit No. 123 for identification only.)

MR. SCHIFFER: The government said they have not provided all.

MR. NEAL: I said we provided all we have.

MR. SCHIFFER: All that you have but not all that this witness gave?

MR. NEAL: I said we provided all we have, all he gave to us, your Honor. I object to these continual insinuations that we are hiding something, we are slipping records around or something like that. Now, I object to that.

MR. SCHIFFER: Well, I say they are.

THE COURT: Well, I believe the matter is clear in the record.

MR. SAULPAW: There appear to be 17.

MR. SCHIFFER: There appear to be 17, your Honor. Now, your Honor, I have no hesitation to passing this to the jury, if I may.

MR. HOOKER: We want them to see them all.

MR. SCHIFFER: One at a time. I am taking them one at a time for cross examination, I will conduct my own cross examination.

MR. HOOKER: No. This is not in order. We ask that all exhibits be passed to the jury with special reference to whether there is anything on top of them.

MR. SCHIFFER: I will examine --

MR. HOOKER: (Interposing) He is talking about what is on top of these bills.

MR. SCHIFFER: I want to examine individually then when I finish with the individual one we will pass them to the jury, your Honor.

THE COURT: Allow the exhibit to be introduced to the witness, I mean introduced to the jury.

BY MR. SCHIFFER:

Q Now, Mr. Witness, with reference to this exhibit, which is being passed around to the jury, is it not a fact

that on the upper portion of that particular exhibit, this hotel bill there are marks which ordinarily do not appear on a hotel bill?

A I never noticed, sir.

Q You never saw them at all?

A I never paid any attention to them, I wasn't interested in marks.

Q Are these the bills that you turned over to the government?

A They look the same, sir.

Q Are those the ones you paid?

A I didn't turn them over to the government, though.

Q Are those the ones you paid?

A Yes, but I didn't give them to the government, sir.

Q Now, with reference to the long-distance calls indicated on that particular bill, those records were turned over as well, were they not?

A Sir, I don't know how they got those.

Q You have no knowledge yourself?

A I didn't give them a record of a phone bill or anything, no. I imagine they got them off of my hotel bill.

MR. NEAL: May it please the Court, I would like to submit those records now going around were subpoenaed from the hotel. Mr. Partin turned over some of his copies to us and I have them here. Mr. Partin has never seen those records

they were subpoenaed from the hotel.

MR. SCHIFFER: Objected to, your Honor, that's a matter of evidence.

MR. NEAL: We'll have a evidence who will so testify.

MR. SCHIFFER: If Mr. Neal wants to testify, I have no objection, but I say it's improper for him to say that to the jury. Let's get it in evidence.

THE COURT: Proceed.

BY MR. SCHIFFER:

Q Now, is there a symbol on the hotel bill which indicates your long-distance calls?

A Yes, I believe there is.

Q And how many long-distance calls are on the very first bill which was just passed around to the jury?

A I'd have to look at it, sir.

Q Do you have an independent recollection of how many there were?

A No, sir, you said I had 90 something, I don't think I had that many.

Q No. I am talking about this one bill.

A I'd have to look at it, sir.

Q And can you tell us by looking at the bill to whom each one of these calls was made?

A Oh, no, sir, I am a single man. I may have called

a lot of girls.

Q You might have called a lot of --

A (Interposing) I have been separated three years, I might have called a lot of girlfriends, boyfriends, or business acquaintances, no telling who I would have called.

Q May I ask you now, this hotel bill was paid for by your union, wasn't it?

A Oh, yes, sir, I think so.

Q And you were calling girlfriends and boyfriends and you were reimbursed for all of that expense by your union, is that correct?

A Yes, sir, and I qualify that --

Q (Interposing) I am asking you, is that --

A (Interposing) I want to qualify my answer.

Q Now, just a moment. Listen to the question. I want an answer to the question.

A I answered but I am going to qualify it.

Q Did the union pay you or pay actually for that hotel bill and everything indicated on it?

A They paid for most of them, yes, sir.

Q They did?

A Yes, sir.

Q This particular bill they paid for whatever it indicates?

A I believe they did.

Q That's all I asked.

A No, I did not --

Q (Interposing) That's all I asked, your Honor.

A No, sir.

Q He volunteered nothing.

MR. HOOKER: He has a right to make an explanation.

MR. SCHIFFER: If he is going to make an explanation --

MR. HOOKER: (Interposing) He asked if the union paid this bill and he wants to explain.

MR. SCHIFFER: It's not a response to the question.

MR. HOOKER: He has a right to do it.

THE COURT: I believe we should move along.

A Sir, he is making reference to phone calls.

Q Just a minute. I have asked no question.

THE COURT: Well, the best the Court can determine the answer seems to be responsive. I think we should move along.

MR. SCHIFFER: Your Honor, I had asked for the airplane ticket, the passenger coupon, for November 7th and it does not appear to be in these documents marked for identification 104, which the government has turned over.

THE COURT: Well, you can't order them to produce something they don't have.

MR. NEAL: Why don't they subpoena the airlines

if they want to.

MR. SCHIFFER: The government has all the money in the world, we don't.

THE COURT: Well, proceed with the examination of the witness.

MR. SCHIFFER: The government usually keeps these, as I understand, six months, as I understand, your Honor.

MR. NEAL: The government?

MR. SCHIFFER: I mean the airlines keep them. Your Honor, could we have a recess to fix these records because they will be tied in to other exhibits in the case? I want to fix them by dates.

THE COURT: All right. Let's take a 10-minute recess. Mr. Partin, you may be excused.

(Thereupon, at 10:24 a.m., a recess was had.)

End 9
10 fls

(Thereupon, after recess, court was in session.)

(Thereupon, the jury of 12 and 4 alternates returned to the courtroom and in their presence the following proceedings were had, to-wit:)

(Thereupon, Witness Grady Partin returned to the witness stand and the following proceedings were had, to-wit:)

THE COURT: You may continue, Mr. Schiffer.

BY MR. SCHIFFER:

Q Mr. Partin, you just made a statement, did you not, when I was inquiring about these telephone calls, that you are a single man now, is that right?

A I said I've been separated for three years, sir.

Q Did you use the term that you were a single man?

A I may have used that. As far as being single, I'm not single. I've been legally separated I guess you call it about three years.

Q But you are not divorced?

A No, sir.

Q At any time in October, November, December, 1962, did you ever leave Nashville without checking out of the hotel and return to Nashville on that same trip?

A Not that I can recall, sir. We had some members that was up here. It could have been occasions where they may have stayed in the room a day or two.

Q I didn't ask you that.

A I can't answer you, sir.

Q I asked you--

A (Interposing) I said I can't answer you.

Q I asked you, was there any occasion during October, November, December, 1962, that you left Nashville and returned to Nashville without having checked out of your hotel when you left?

A I can't recall it, sir, if I did.

Q No recollection at all?

A None that I can recall, sir.

Q Can you tell us where you went on the 18th of November, 1962? December? 18th of December, 1962?

A No, sir, it is possible one of those times I stopped off. I'm not positive. Sir, I can't understand for the other counsel over there asking questions. I can't understand him half the time.

Q Nobody is asking any other questions. I show you this Exhibit No. 107 for identification, and ask you to look at it and tell this court and jury whether you left Nashville during that period of time indicated on the hotel record without checking out of the hotel and returning to the hotel.

A I can't tell by looking at it, sir, just looking at it off-hand.

Q Would be no indication, then you have no independent

recollection?

A When I went to Dallas I may have. I don't think so. I believe the Dallas trip was later. No, I'm not positive, sir. I can't tell you for sure.

Q How many trips did you make to Dallas in October, November, December, 1962?

A I made one, sir, that I can recall.

Q Just one?

A That I can recall, yes, sir.

Q And with that one single trip that you made to Dallas, you can't tell us whether it was in October, November, December?

A I would think it would be in November. Last part of November.

Q Fix the time in November?

A I would guess--

Q (Interposing) You were guessing.

MR. NEAL: I didn't hear the witness' last answer. What was that last answer?

THE COURT: The last part of November he would guess.

THE WITNESS: I'm just guessing at it, sir.

BY MR. SCHIFFER:

Q You are just guessing. Letme show you--, first, mark it for identification.

MR. HOOKER: We would like for the jury to see this hotel exhibit.

THE COURT: All right.

MR. SCHIFFER: When I finish, Your Honor, I will be certainly happy to turn everything over to the jury.

BY MR.SCHIFFER:

Q I show you this paper consisting of two sheets, and ask you what that is if you know.

A Yes, sir, that is a plane ticket.

Q It is a plane ticket?

A Appears to be.

Q Does it indicate your name on it?

A Yes, sir, it does.

Q Does it refresh your memory now?

A No, sir, for this reason, because the majority of the time I had to go through Atlanta. You couldn't get a direct flight ninety percent of the time. You changed planes in Atlanta.

Q I asked you, does it refresh your memory as to any trip you may have made at any time?

MR. NEAL: May the government see the ticket, please?

MR. SCHIFFER: Let him look at it so I can find out whether he can identify the ticket first.

THE WITNESS: It looks like mine, yes, sir.

BY MR. SCHIFFER:

Q What date is that? What date does it show the flight?

A It shows December 17, 1962.

Q And from where to where does that ticket indicate the trip was made?

A From Nashville to Atlanta to New Orleans is what it says.

Q Within one way, isn't it?

A Yes, sir, one way.

Q And does it indicate the day you actually made the flight?

A If this is correct it says December 17th.

Q May I see it now, please? That is December 17, 1962?

A That is what it says on there, yes, sir.

Q I show it to Mr. Neal and is that date covered, November 17, 1962, in the hotel bill which you have before you now?

MR. HOOKER: December?

BY MR. SCHIFFER:

Q December?

A That is a December bill, isn't it, sir?

Q And from date to what date does that bill indicate you were at the hotel?

A December 16th to I believe it is either the 19th or the 20th. It is blotted out on the bottom. I can't tell what it is.

Q Does that refresh your memory now after having looked at this ticket, airplane ticket, and hotel bill, that you had left Nashville without checking out of your hotel?

MR. NEAL: Your Honor, I'm no expert on this, but this is the date of issuance of the ticket, it appears to me. Date and place of issue of this ticket and there is a stamp, December 17,1962. I think counsel should not try to confuse the witness.

MR. SCHIFFER: Well, if this is a lot of confusion, Your Honor, it says on the face of the ticket, Nashville, from Nashville, Eastern Airlines flight 287, dated 12-17, leaving at 8:45 A. M.

End Tk 10

Tk 11 fol.

MR. NEAL: Look at this date and place of issue of this ticket.

MR. SCHIFFER: I am talking about the time shown of the passage from Nashville eventually to New Orleans.

THE WITNESS: I didn't see that part, sir.

BY MR. SCHIFFER:

Q Would you like to take a look at it?

A Yes, I would.

(The document referred to above was handed to the witness.)

A Sir, it doesn't show me on here when it was issued.

Q Does it indicate the flight number you were booked for?

A Yes, sir.

Q And when you gave these tickets to Mr. Neal, were those the canceled tickets that you had in your possession at the time you gave them to Mr. Neal?

A Sir, I can't swear this is the ticket, it says, it shows anything you want, I am agreeing that it shows on that there, but it doesn't show when I --

Q (Interposing) Do you deny then, do you, that you made that flight?

A I don't know if that was the date I made it or not, it shows the day I purchased, shows when I should have

been on, I could hold it for a month and then use it.

Q Does it indicate on that ticket a month later that you used it, is there a change made on the date of flight?

A It doesn't indicate I used it on that date, sir.

Q Does it indicate that you did not?

A It doesn't indicate I did.

Q Doesn't indicate it at all?

A So it doesn't refresh my memory.

Q Now, in your experience with airlines do they fill out generally the trip you are making on the date you make it?

A Sir, I have tickets I have bought, if you have got a reservation, you went out and purchased your ticket ahead of time, they would have the flight you were supposed to leave on and that date if you called and canceled and they would reschedule on another flight but you would use the same ticket that you had, they wouldn't issue a new ticket.

Q Wouldn't they change the flight number if you actually had changed your flight number?

A It may be the same flight number the next day, sir.

Q Does it show, the record?

A Sir, their records would show you, I don't know.

Q Pardon me. Does it show December 17th that you

purchased the ticket and December 17th that you made the flight?

A No, sir, it don't show I made it.

Q Doesn't show it?

A You didn't let me answer you, Mr. Silets, or whatever your name is, you didn't let me answer you.

MR. SILETS: May --

Q (Interposing) I am asking you to be responsive. Does it show you?

THE WITNESS: Your Honor, I can't because he won't let me answer.

THE COURT: Don't interrupt.

Q Does it indicate --

THE COURT: (Interposing) Don't interrupt the witness, Mr. Schiffer.

MR. SCHIFFER: He doesn't answer.

THE COURT: You interrupted him so much he can't answer.

MR. SCHIFFER: I am not arguing with the witness, your Honor. I want him to be responsive the way you directed him, we get four different kinds of answers to the same question.

THE COURT: All right.

MR. HOOKER: We object to that statement and ask the jury be instructed not to consider it.

THE COURT: Allow the witness to answer the question.

A Sir, it says on here, "Field Ticket Office, Nashville, Tennessee." I think I know what it is, now, sir, you refreshed my memory. As I recall when you get one from a Field Ticket Office you get one to leave on any date you want to and you fill it out on that date, that doesn't mean that you left on that date, sir.

Q Let me ask you a question. When you buy a ticket from an airline, whether you buy it from a city ticket office or you buy it out at the airport, is there any difference of procedure that you know of if a flight you are booking for --

A (Interposing) I am not an expert on that, sir, I don't know.

Q Well, I am asking you your experience. When you went to a city ticket office of an airline they booked your ticket in one fashion but if you bought your ticket out at an airline terminal out in the field office that they had a different system for assigning you onto the flight?

A Well, sir, you asked me if I know anything unusual but I said no. You tried to give me --

Q (Interposing) Please answer my question.

A I can't.

Q And not be evasive. Your Honor, I demand an answer.

A I can't answer.

MR. SCHIFFER: If this man is going to go far afield again I asked him one question, he has given me eight different answers.

Q My question to you, sir, is in your experience, having done so much traveling on aircraft, is there a difference when the airline books you in whether you buy your ticket in the city ticket office or you buy it out to the field office?

A Sir, I don't know that.

Q Then you don't know of your own knowledge, do you, if there is any difference when you buy a ticket at the field office or you buy it anywhere else?

A No, sir, from this I don't know it is either.

THE COURT: That's what he said. Let's move on.

MR. SCHIFFER: May I have the ticket?

BY MR. SCHIFFER:

Q Every time you buy an airplane ticket you have a stub left in this form as you have just seen it, do you not?

A Yes, sir, usually do.

Q One part is left with you, is it not?

A You didn't let me answer you, sir. I said it usually is and you asked me another question before I got through answering you.

Q Will you answer my question without evasiveness and I ask the Court to direct this witness.

THE COURT: Mr. Schiffer, he answered you, you interrupted him. If you want to have the record read, we will let the record be read and let the witness answer. The way the witness answered, you interrupted and repeated the question. If you will listen to the witness as well as the witness listen to you, we will get along, but both the attorney and witness listen to the question and listen to the answer.

MR. SCHIFFER: I have cautioned him a hundred times to listen to the question when I think he is finished then he has another aside he starts in giving more.

THE COURT: He did not on that occasion.

BY MR. SCHIFFER:

Q Did you pay for this ticket in cash or credit card?

A Cash, I would imagine, sir.

Q Your own cash?

A Yes.

Q Anybody with you?

A No, sir.

Q Now, you said that this does not refresh your memory that you actually made such a trip, is that correct?

A I don't remember ever checking out and leaving the hotel room and getting a ticket and then coming back on this same bill, no, sir, I told you that.

Q Was there ever a time then when you returned to Nashville without having checked out of the hotel when you left?

A Not that I can recall, sir.

Q Did you ever go with anybody on a flight between Nashville and New Orleans?

A No, sir, not that I can recall. A lot of people was there, I imagine, but none that was personal friends of mine that I know of that I can remember.

Q My question to you is did you ever make a trip between Nashville and New Orleans not having checked out of the hotel in Nashville and make that trip with a friend of yours?

A Sir, I don't ever remember it if I did.

Q Now, you seem to have some question, as I understand your answer, with reference to the Eastern Airlines ticket we have just gone over, December 17th, 1962. Let me show you another ticket and ask you if this helps you to refresh your memory as to whether or not you had made that trip from Nashville to New Orleans?

A Could I see the other one, sir, to put it with it and see if it would help?

(The document referred to above was handed to the witness.)

A No, sir, it doesn't, but it looks possible, I

couldn't -- oh, from the looks of the ticket, but I am not an expert on these.

Q I am not asking you to be an expert about anything, witness. I am asking you does this refresh your memory of the fact that on December 17th of '62 you left Nashville and went to New Orleans and that on December 18th, the following day, you bought a ticket in New Orleans and returned to Nashville?

A I said, sir, looking from this it looks like it's possible, I don't recall the incident.

Q Would you say those records are inaccurate?

A I couldn't swear to them because I don't understand the issuing of the things, I don't understand whether it means that is the date it was issued on. If you get someone to tell me from the plane ticket office that is correct, I will agree with them. I don't know.

Q How many airplane tickets have you bought in your lifetime?

A I haven't bought as many -- I don't have a private plane and everything, I mean, to get around.

Q I didn't ask you --

MR. BROWN: (Interposing) Your Honor, that's not responsive.

Q Please be responsive.

A Sir?

Q How many do you say you have bought in your lifetime from airplane companies?

A I couldn't guess at that, sir.

Q Must be hundreds, am I right?

A I don't imagine it would be hundreds, no.

Q No?

A I don't guess it would be hundreds, no, sir.

Q Did you ever make a trip back from New Orleans to Nashville in the company of somebody else?

A Sir, I know what you are getting at but I can't recall the incident. If I could I would tell you.

End 11
12 fls

Q Well, when you say you know what I am getting at, maybe you can tell me what I am trying to get at.

A Evidently you are trying to say government official came with me. If I remember one, I would say he did.

Q May I then tell you you are in error?

A Okay. Then I will present it. Thank you.

Q I am asking you now did you return from New Orleans to Nashville in the company of any other person at or about that time, December 18, 1962?

A Not unless it would have been one of the members that came up for the trial. That is the only thing I can think it would have been.

Q I am not asking you about who you think it would have been.

A I can't answer you, sir.

Q I am asking you did you make such a trip with another individual on the same plane from New Orleans to Nashville on December 18, 1962?

A Sir, I said I can't recall such a trip.

Q You have no recollection?

A I certainly don't.

Q Do you know anybody by the name of Tucker?

A That is what I was trying to get at, sir, that is one of the men that came up here. I said it was possible.

Q Is he a government agent?

A No, sir.

Q Oh, he is not a government agent?

A No, sir, he isn't.

Q Now, you know Mr. Tucker, do you not?

A Yes, sir.

Q What did you bring him back for? From New Orleans to Nashville?

A Sir, several of them was interested in the trial and I think that later on two or three drove up.

Q I am just asking you, you say they were interested in the trial?

A Yes, sir.

Q I show you this ticket, from Delta Air Lines showing passage from New Orleans to Nashville in the name of what appears to be R. Tucker (spelling) T-u-c-k-e-r, and ask you whether looking at this ticket and combination with the other two you have before you, whether the combination refreshes your memory specifically with that trip?

A This looks like Mr. Tucker came back with me on this date. As far as refreshing my memory whether I left or not I don't know. I know Mr. Tucker came up here.

Q Now, looking at those tickets you still don't know of your own knowledge, memory or knowledge?

A Not to swear.

Q Whether Mr. Tucker came back on the same flight with you?

A Evidently Mr. Tucker came. I told you before that evidently several of them came up here.

Q But you don't know whether he made the same flight?

A Evidently he did.

Q You would say the ticket then is accurate?

A As far as I can tell by looking at it, it is, but I can't swear that this is the ticket.

Q And now that you see the three air plane tickets, would you say that it is true that you left on December 17th, and went down from Nashville to New Orleans and on the following day on the 18th as indicated on the face of the ticket you did then return from New Orleans to Nashville on December 18, 1962?

A I say it is possible, sir. From looking at it, it is possible.

Q And during this period when you left Nashville on December 17th, the fact is you did not check out of your hotel, did you?

A Well, from what you have I say it is possible. If I had I would have told you. If I remembered I would have been glad to tell you.

Q Would you look at the whole, indicating the

ticket dates before and after, and tell us--

A (Interposing) Yes, sir, I would have nothing to hide.

Q I didn't ask you whether you had anything to hide. I am asking you by looking at the hotel bill and looking at the air plane ticket, is it not a fact without checking out of the hotel you left on December 17, 1962, and returned on December 18, 1962?

A I can't swear to identify it.

Q You can't swear?

A I said looking to me, to looking at it, it looks that way, but I can't swear to these things. It appears that way to me.

MR. SCHIFFER: May we have the jury examine these tickets, your Honor?

MR. HOOKER: And the hotel bill?

MR. SCHIFFER: Yes, he has the hotel bill there.

THE COURT: Yes, they may examine both. Pass them to the jury.

MR. SCHIFFER: May I, at this time, your Honor, respectfully offer in evidence these exhibits marked for identification the three air plane records and the government checks which we have marked for identification up to this point? Four government checks?

THE COURT: All right, without objection they

will be admitted.

(The hotel bills referred to above and previously marked for identification as Exhibit No. 100 were received in evidence.)

(The air plane tickets referred to above previously marked for identification as Exhibit No. 123 were received in evidence.)

MR. NEAL: We have no objection to these exhibits, your Honor.

MR. HOOKER: Your Honor, we would like for the jury to see them at the proper time.

THE COURT: All right.

BY MR. SCHIFFER:

Q Now, with reference to November 7, 1962, did you testify in this trial that you had had any conversation with Mr. Hoffa concerning this alleged jury tampering?

MR. NEAL: Your Honor, this is repetitive and we've been going on now since last Tuesday.

MR. SCHIFFER: Basis for another memory now, trying to draw his memory back to another specific event. If not, I will draw it out another way. I thought this was a shortcut to save time.

MR. NEAL: I want to make my objection. The government is going to go on with this trial. We've been here since last Wednesday on cross examination. The government feels it is its duty to move that this is not only repetitive, even if we have to make more objections than we

would like to--

MR. BROWN: (Interposing) I object to the speech of Mr. Neal. I think everyone is interested in moving the trial along in the normal course. We ask that those remarks be stricken.

THE COURT: I will let him answer the question again. He has, it seems to the Court, answered the question a number of times. If he knows whether he did or not he can answer it. If he doesn't know he can say he doesn't know.

End Tk 12
Tk 12A fls.

MR. HAGGERTY: I ask that Mr. Neal's remarks be -- it isn't the desire of the defendant to delay this trial. It is the duty of the defendant to properly examine a witness who has been dug up by the government such as this one or any other witness, and I don't want Mr. Neal's remarks to prejudice the defendants that we are delaying the trial.

THE COURT: Well, ladies and gentlemen, as I have instructed you upon other occasions, you will disregard the argument of counsel.

MR. BRANSTETTER: May it please the Court, Mr. Neal consistently gets up and makes remarks here about moving this trial along. I think the record will show that the government spent some considerable time with this witness also. There remain at least five defendants in this case at this point. I don't conceive of how the government would think that these five defendants should be shorn of their rights to fully cross examine and fully portray the facts or lack of facts as the case may be with reference to this witness and I deem it prejudicial at least to the Defendant Campbell and move for a mistrial on the basis of these consistent statements and particularly the last one, made by Mr. Neal.

THE COURT: Overrule the motion.

MR. SILETS: May it be joined in by all the other defendants, your Honor?

THE COURT: All right, overruled as to all the defendants. Proceed.

BY MR. SCHIFFER:

Q Now, isn't it a fact, Mr. Witness, that in connection with the telephone, with an airplane ticket, the 7th of November, 1962, you deliberately destroyed the record which a passenger normally keeps and which is being passed around among the jury now?

A No, sir, I have not.

Q You have not?

A I have done my best to find them all.

Q And whatever you did find, you gave to the government?

A I gave all I had to them, yes, sir.

Q And did you go to the Eastern Airlines or Delta Airlines or any of the airlines to find the stubs or their records of any trips you may have made as to which you did not retain the stub tickets?

A No, sir, but I will be glad to sign a letter to you authorizing you to get them.

Q I didn't ask you that, did I? I asked you what you did. Now, you answer my question.

A And I qualified it, sir.

Q Don't qualify anything.

A I have.

MR. SCHIFFER: Now, your Honor, I want another direction to this witness.

THE COURT: Well, the Court has given directions to both counsel and the witness with respect to both, and I expect both to abide by them. Proceed.

MR. SCHIFFER: I find, your Honor, that I must interrupt when he goes far afield and doesn't give a responsive answer to the question.

THE COURT: Proceed.

MR. SCHIFFER: This man wants to make volumes, your Honor, without a response to the question and I can't help myself and I feel with your Honor's remarks, unfortunately, I'm being prejudiced in front of this jury as though I were a trickster.

THE COURT: Proceed.

MR. HOOKER: We object to the argument, if your Honor please.

THE COURT: Proceed with the question.

BY MR. SCHIFFER:

Q Did you and the government go to any of the airlines to find the records which you did not have on the trips you made by air during October, November, December, 1962?

A I didn't. I can't speak for them, sir.

Q You have no knowledge whether they did or not?

A No, sir.

Q Is that right?

A It is up to them to prepare their own prosecution, not me.

Q And tell me, you were and according to your testimony, you were in Nashville in October, November, and December, 1962, every day or almost every day, isn't that right?

A I don't know how many days. I would have to look and check.

Q I'm talking about during the period from October 22 to the end of December, your testimony is that you were there constantly?

MR. NEAL: Objection, your Honor, as being not only repetitive but as being a misquotation of the record.

THE COURT: Sustained.

MR. SCHIFFER: We'll find out about the misquotation, your Honor.

BY MR. SCHIFFER:

Q Did you go to court every day when court convened in Nashville?

A Sir, I said if I was there I probably did.

Q What time did court open in the morning in Nashville every day?

A It opened, I think, about 9:00 o'clock and let out about 1:00.

Q So that the sessions were from 9:00 to 1:00, 9:00 in the morning to 1:00 in the afternoon?

A Sir, you wouldn't let me finish. I said the best I can recall that is about the times it let out.

Q Now, I will tell you what now on this question, you can talk all you want, give us your full answer.

A All right.

Q Unless you have completed your answer. Have you completed your answer?

A No, sir, I said as far as I can remember court convened earlier than usual and let out earlier than usual, I believe, because of the condition of the judge what he had, or something. I heard the remarks that he couldn't hold court all day is the reason I remember that because of his either heart condition or illness or something that he couldn't hold court all day long.

Q I see. So as I understand from your answer court actually sat throughout the trial from 9:00 in the morning until 1:00 in the afternoon?

A No, sir, I didn't say that.

Q What did you say?

A I said to the best of my ability and the best of my recollection court started a little earlier than usual I believe around 9:00 and let out about 1:00 or maybe a little later. I'm not positive of the exact time. I know it didn't

go like this court here.

Q That is your best recollection?

A As far as length of court, yes, sir.

Q Have you finished your whole answer?

A Yes, sir.

Q Is there anything else you want to add to your answer?

A I don't have anything.

Q You are finished now?

A It is up to you.

Q Now, may I ask the next question?

A Yes, sir.

Q Fine. I haven't curtailed you, have I, in giving your full answer?

THE COURT: Proceed, Mr. Schiffer.

End 12a
13 fls

Q Now, in your prior testimony in this trial did you testify in any respect to the best of your present recollection as you sit here today as to whether you had had any conversation with Mr. Hoffa in reference to Larry Campbell, a defendant in this case, concerning some remarks that you said Mr. Hoffa made about Mr. Campbell having come in to Nashville before the trial commenced?

A Yes, I believe I remember that.

Q You testified to that?

A Yes, sir.

Q And you were in Nashville from October 22nd on fairly regularly, were you not?

A Sir, I'd have to look at the records. As best I can recall that is correct.

Q You mean as you sit here now and after all of your testimony you still don't know that the actual trial commenced on October 22nd of '62.

A From the records, I said I guess it did.

Q Now, with regulation to your statement as you stated it by this remark of Mr. Hoffa was it to the effect, as you have testified, before the trial commenced he had had one of his business agents, Larry Campbell, come into Nashville and took care of the colored male juror?

A To the best I can recall that is correct, sir.

Q Do you recall now to your best recollection the

trial commenced October 22nd of '62?

A It seems that it was,yes.

Q Well, when you say "it seems it was", I am asking you to tell us from your own memory.

A Well, sir, looking at the records I am just going by looking at the hotel bills and things, I said that was the first day I was there, the preparation probably was going on for quite awhile.

Q Well, I'm asking you if the trial began on October 22nd, 1962?

A Well, I can't swear that's the date that the trial began.

Q If I show you the records would you be able to tell us when the trial commenced?

A Be able to tell you what the record said.

Q I am asking you, would you be able to tell us by looking at the hotel records when the trial commenced?

A No, sir, I couldn't swear to it. I can't swear that's the day the trial started.

Q Well, haven't you already testified to Mr. Hooker and to other defense counsel that the trial commenced on October 22nd and that you arrived in Nashville on the day when the trial opened?

A I don't believe so, I don't think.

Q You did not?

A If you will let me finish answering you, sir.

Q Oh, by all means.

A Thank you, sir. I think I said I think the trial started about then, the records showed I came in. I cannot swear that it actually started that day, they have been picking a jury, they may have been getting prepared for it.

Q And you specifically remember that you got in there the day the trial started, whatever day it was, is that right?

A No, sir, I didn't say that.

Q What is significant about October 22nd, 1962, to you?

A Because that is the date that I arrived in Nashville, it was showed me, to me in this manner, "Was this the day you arrived," by you and five or six others.

Q And was that the date the trial started?

A Sir?

MR. NEAL: Your Honor--

THE COURT: (Interposing) Sustained.

MR. SCHIFFER: I am trying to find out what he means, Your Honor.

THE COURT: Sustain the objection.

BY MR.SCHIFFER:

Q Had you testified already that October 22nd, 1962 was the date the trial started?

A I have never told you I could swear to that date of anything on that, I don't know when it started exactly because--

Q (Interposing) Would the hotel bill help you?

A Your Honor, could--, would he let me answer my question?

Q I am asking you, would the hotel bill assist you?

THE COURT: I have sustained the objection to that exact question about the date of the trial. The witness answered three or four times what his recollection is in that regard.

BY MR. SCHIFFER:

Q You spoke of Mr. Hoffa, you said, and he told you that prior to the trial he had had his business agent, Larry Campbell, come into Nashville and had already taken care of the colored male juror, you testified to that, is that right?

A Similar to what you said, yes.

Q All right. Now, I am going to tell you, it's an established fact that October 22nd, 1962, is the day the trial started in Nashville and I am sure the government will consent and agree that is the correct day.

Now, if I tell you that will you accept that as the day the trial started?

A Not if you tell me, if they tell me, I will.

Q You don't hear them objecting, do you?

A O. K. Well, bring it on up.

Q All right. Now, then, the selection of the jury did not begin until October 22nd, 1962, at the commencement of the trial, is that right?

A I don't--

Q (Interposing) You knew that.

A Sir, you won't let me answer you. I don't know when the selection of the jury began, as far as the actual selection of the jury began I can't swear to that.

Q Well, could you swear to the fact that you know of your own knowledge that when the trial commences formally the first thing that is done is to select a jury, you know that, do you not?

MR. NEAL: Well, Your Honor, I don't even know that because all day Monday, October 22nd, we had pretrial motions.

THE COURT: All right. Sustain the objection.

MR. NEAL: I don't think that is a proper question to a witness who is not a lawyer, I wouldn't even know how to answer it.

THE COURT: Sustain the objection.

MR. SCHIFFER: Well, maybe we will put Neal on the stand so he can advise, he doesn't know the first thing you do is to select a jury.

A I know what he is getting at but he is not allowing

me to answer.

Q The first thing you know that happens in a trial is the selection of a jury where it's a jury case?

A I am not an attorney.

Q You don't know that, do you?

A I am not an attorney.

Q I'm not talking about being an attorney.

A No, sir, I don't know that.

Q You have never read that in newspapers, have you?

A Oh, I have read books and things that said they selected one.

Q Yes. Are you finished?

A You didn't let me.

Q Oh, please continue then .

A O. K. Sir, but evidently it's a lot of things go on before trial.

Q You just heard Mr. Neal say that, didn't you?

A I don't even look at Mr. Neal because of you, sir.

Q You heard the remarks he made a little while ago.

THE COURT: Let's don't argue with the witness, Mr. Schiffer. Proceed.

MR. SCHIFFER: I'm not arguing with him.

THE COURT: Yes you are arguing with the witness and proceed to ask your question.

MR. SCHIFFER: I ask him a question whether he

heard Mr. Neal say the first day the jury was not selected, the first day was motions. I asked the witness did he hear Mr. Neal say that.

THE COURT: Proceed to the next question, Mr. Schiffer.

BY MR. SCHIFFER:

Q You came to Nashville and you were vitally interested, you told us, did you not, about who was going to be on this jury, isn't that correct?

A I didn't say I was vitally interested in it, they were.

Q You were vitally interested in carrying stories to Mr. Sheridan, isn't that right?

A Not stories.

MR. NEAL: We object to this as being repetitious.

MR. SCHIFFER: It isn't repetitious.

THE COURT: Overrule the objection.

BY MR. SCHIFFER:

Q You had come to Nashville on something that you had in mind which was connected with the jury that was going to sit on that case.

A No, sir, I didn't have anything in mind when I came in, just knew what I was looking for.

Q What did Mr. Grimsley tell you according to your testimony he was interested in in Nashville when you got up

there in to Nashville concerning the trial?

MR. NEAL: Objection.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Didn't you testify that you had spoken to Mr. Sheridan in connection with jury tampering?

MR. NEAL: Objection as being repetitious.

THE COURT: Sustain the objection.

MR. SCHIFFER: Well, Your Honor, this curtails the cross examination. Here is a man who makes a statement now in which he says he doesn't know when the jury is selected, he knows nothing about how a jury is selected, when the very purpose of him coming to Nashville is to see about the selection of the jury and now we are being curtailed from examining him on the very purpose which he himself stated was his purpose in coming.

THE COURT: Proceed on some matters that have not been covered several times.

MR. SCHIFFER: Not been covered by me, Your Honor, may have been covered by other counsel and I respectfully urge the Court to permit me to conduct a cross examination on behalf of Parks.

THE COURT: Cite the Court some authority to that effect.

MR. SCHIFFER: We handed a memorandum of law to

the Court on that very issue, Your Honor, I think it settles the whole issue.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Now, throw your mind back to October 22nd, 1962, the day you arrived in Nashville. Was there a jury already selected when you got into Nashville?

A Sir, I don't know whether the jury was selected or not.

13A

Q When was the jury selected in the Nashville case?

A Sir, I told you I didn't know exactly when the jury was selected.

Q How long were you in Nashville before the jury was completed?

A It wasn't too long.

Q How long would you say?

A I said I don't know the exact time.

Q Well, give us the best approximation of your recollection.

A I can't.

Q Of your recollection now.

A I can't tell you, it wasn't but a few days or a day or two or whatever it would be, it wasn't too long afterwards.

Q Would you say a week?

A No, I wouldn't think it was a week.

Q You don't think it was a week?

A I don't believe it was.

Q Would you say five days?

A Sir, I told you I can't answer you with a yes or no, I can't estimate because I wasn't taking down a jury list and who was all on it, and how many they had to go and all of that, I wasn't interested in that.

Q But you do know, do you not, that on the day you arrived in Nashville and until you went to sleep the first night after you arrived in Nashville the jury had not yet been chosen?

A I can't swear to it.

Q You can't swear to that, can you?

A No, no, I sure can't.

Q And you haven't spoken about your testimony in this case immediately before you took the witness stand in this case, did you?

A I haven't been able to even see them.

Q See nobody?

A They run, I tried to make a phone call, they get by me like they--

THE COURT: (Interposing) Let's don't volunteer any information.

BY MR. SCHIFFER:

Q You didn't speak with Mr. Neal or Mr. Hooker or any other attorney connected with the prosecution about your testimony in this case before you became a witness here in Chattanooga?

A Oh, yes.

Q I didn't realize that you had.

MR. NEAL: Well, Your Honor, he has testified to that several times.

MR. SCHIFFER: Well, maybe Mr. Neal--

THE COURT: (Interposing) Proceed.

MR. NEAL: I object.

MR. SCHIFFER: Your Honor, I think Mr. Neal should reserve his remarks and any questions he wants, he will have full opportunity for redirect.

THE COURT: Proceed.

BY MR. SCHIFFER:

Q Is it your firm statement as you sit here now as a witness and under oath that you of your own knowledge know as of October 22nd, 1962, that Larry Campbell was in the city of Nashville?

End Tk13

Tk 14 fol.

A No, sir, I couldn't swear to that.
Q You don't know that?
A No, sir. I can't swear to that.
Q Did you ever see him in Nashville in October, November, December, 1962, or any time prior to that?
A I don't remember it if I did.
Q Would you say you did?
A I said I don't remember it if I did, sir.
Q You have no recollection, have you?
A No, sir, I don't, not as far as seeing him in Nashville, I don't remember ever seeing him in Nashville.
Q Now, in connection with the statement which you say Mr. Hoffa made to you --
A (Interposing) Yes.
Q Specifically in substance what he said to you as you allege, is that he had had Larry Campbell come in before the trial started and I will say fix or took care of, a colored male juror in this case?
A Yes, it puzzled me how he was going to do it too.
Q I'm just asking you, is that what you testified to and is that what you are saying now?
A Yes.
Q Yes or no?
A Yes, that is essentially what I am saying, sir.
Q All right. On that day you testified, did you not

that you saw Mr. Hoffa that morning when he made this statement, he made this statement to you that morning?

A You're behind time, sir, no.

Q No?

A No.

Q Wasn't that the date according to these hotel records, the airline tickets, and your records and your memory wasn't that the date you left Nashville?

A I believe my memory tells me I said around noon, give or take an hour or two.

Q You left around noon, is that right?

A No.

Q Well, you tell us now.

A You won't let me.

Q I will let you tell us when you left Nashville that day.

A When I left Nashville that day?

Q Yes.

A I didn't say I left Nashville that day.

Q Did you testify that after you had this conference with Mr. Hoffa you left Nashville and were going on about your business, some other business?

A No, sir, you have got the second one mixed up.

Q Oh, the second one is mixed up?

A No, you are trying to put the second one in the

first one.

Q Did you testify that in one day, in one morning, you spoke with -- that in this one morning you spoke with Mr. Hoffa and someone else concerning this statement you attribute to him?

A What statement?

Q The one we have just been going over about Larry Campbell having been in before the trial started to take care of the juror.

A I don't think that happened the first day, sir, the best I can remember.

Q I didn't say the first time, I'm talking about the date when it occurred, I'm not fixing dates, I'm asking you about events now which you say is the only way you can remember what happened, now, I'm asking you, sir, on the basis of your prior testimony tell this Court and jury limiting yourself to events the day that you say you had this remark with Mr. Hoffa he made this remark, did you speak with anybody else that day about jury tampering?

A I believe I said I spoke to Mr. King prior to that. I'm not sure of what date you are talking about. The closest to the event, I believe I had been speaking to him some either prior to it or day after it. I'm not positive but it was being discussed.

Q Could you tell us now that you are not positive

what you have testified to this jury happened on a single day when you spoke with Mr. Hoffa who is supposed to have told you what you said but you think that other than a prior occasion later occasion that you spoke with Mr. King?

A I believe they understand what I am saying, sir. I can't swear to the date.

Q I'm asking you to answer the question. Now.

A Well, you made a speech. You didn't ask me a question.

MR. SCHIFFER: Your Honor, I move for direction of this witness, he wants to become imaginative and if the Court permits it, I don't know how we can cross examine.

THE COURT: Do not argue with counsel. Listen to the question and answer it.

MR. NEAL: Your Honor, could we have the question read back?

THE COURT: I believe we would save time to re-state the question.

BY MR. SCHIFFER:

Q Do you now state as you sit here now that it was not the same day that you spoke with Mr. Hoffa and he is supposed to have told you this business about Larry Campbell, that you spoke with King, not that day, but some day before or after, concerning jury tampering?

A No, sir, I didn't say that.

Q Do you now state that it was the same day?

A I didn't say that. If you want me to tell you what I said --

Q (Interposing) I am asking you to answer my question.

A I can't. You made a statement.

Q I am asking you, please follow me, do you say that you did not speak with King the same day about jury tampering that you spoke with Mr. Hoffa where you related he spoke about Larry Campbell?

A It is possible.

Q You say it is possible?

A Yes, it is possible.

Q Did you testify it did happen an event --

A (Interposing) Not on that exact date. I don't think I could have tied it down to an exact date.

Q Did you give any testimony in this court at all about having spoken to Mr. Hoffa during the course of certain hours in the day and that later the same day you spoke with Mr. King about jury tampering and then you left Nashville and went off on an airplane?

A I believe I spoke to Mr. King prior to it. I'm not positive when it was. I talked to him just about every day or so about something concerning the trial, sometimes pertinent, sometimes it wasn't.

Q All right.

A Sometimes pertinent and sometimes it wasn't.

Q And did you testify that a little while ago that you had left Nashville that day somewhere about 12:00 or 12:30?

A I don't know, sir. I would have to look at the records to see.

Q I didn't ask you, didn't you just a little while ago say that you left Nashville by air around 12:00 or 12:30?

A I would have to look at the record, sir. If that is the same record you are speaking of, the hotel.

Q I'm not speaking of any records, I'm asking you about your testimony this morning, did you not testify a little while ago that you had left Nashville around 12:00 or 12:30 that afternoon?

A You amaze me. If I can look at the hotel bill I can tell you. That is what I was looking at when I answered you.

Q Which hotel bill do you want?

A The one you are speaking of. That you said I testified about. This is the one we were looking at, sir, will you ask me what I said about it? Is that what you want to know?

Q With reference to the date, final date shown on that hotel bill, which is November 7, did you --

A (Interposing) I said --

Q (Interposing) Did you not a while ago tell us that you had left Nashville around 12:00 or 12:30 noon?

A No, you showed me a check-out time. I said that is what it showed.

Q I'm not asking you that, I'm talking about an answer you gave here within the last five minutes.

A Whatever is on here is what I said. I can't -- it says --

Q (Interposing) I'm not talking about --

A (Interposing) You won't let me talk.

Q No, I want you to answer my question.

A I can't answer your question the way you are putting it. You are rattling off and you are not letting me say anything.

Q When Mr. Neal jumps up you answer, you --

A (Interposing) You ask me, until you ask me a question and --

THE COURT: (Interposing) Mr. Partin, let's wait and listen to the question and respond.

BY MR. SCHIFFER:

Q Now, then, did you not state in the last five minutes here as a witness that you had left Nashville between 12:00 and 12:30 noon that day on November 7th?

End 14
14a fls

A I don't know, sir. I would have to find what you are pointing out here.

Q Just a minute, would you stop looking at the exhibit and listen to me?

A Yes, sir.

Q Did you not testify within the last five minutes that you had taken a plane and left Nashville on November 7, about 12 or 12:30 noon?

A May I answer you, sir?

Q I am just asking you, did you so testify?

A Well, can I answer you without you interrupting?

Q That is all I want you to answer, answer without a volume.

A I remember 12:30 or something being mentioned, but it was something you pointed out to me on this bill. But it wasn't anything I recall. That is--you pointed out some-thing to me on this bill. I don't recall.

Q I am not referring to that, sir.

A I am.

Q I am asking you, did you not testify here a little while ago that you had left Nashville by air between 12 and 12:30 noon? Now, that is the only question. Will you answer it, please?

A I don't remember the exact time that I said on that. I don't even know if I said I left by a plane. We

are so arguing about this thing here for some reason.

Q I am not asking you that question. I am asking you did you not testify here within the last five minutes and say to this jury and for this record, that you had left on November 7, 1962, and that you had left Nashville around 12 or 12:30 noon?

A All I can say is it shows I left November 7.

Q Will you please answer the question?

MR. NEAL: Your Honor, I think he answered, he said he didn't remember. Objection.

MR. SCHIFFER: He is not referring to the records now, your Honor, this becomes vital now and every time this man is caught on cross examination Mr. Neal is up like a jumping jack, and he wants to correct his testimony. The witness listens and changes his story, it goes on for five days.

MR. HOOKER: We object to that, that is completely uncalled for and we object to it and ask the Court that the jury be instructed not to regard it.

THE COURT: Sustain the objection.

MR. SCHIFFER: Your Honor--

THE COURT: (Interposing) Sustain the objection.

MR. SCHIFFER: We were looking to refer to the record, Mr. Reporter, will you find the question and answer?

MR. BRANSTETTER: May it please the Court, I

don't quite see how in a proceeding of this type can result in anything approaching a fair trial on behalf of Defendant Campbell, and particularly this jumping up as has been suggested and the Court has instructed the jury that it will disregard it. I think that the Court can observe how much the jumping up goes on. And the jury can observe how much the jumping up goes on. We have here, I think, at this table particularly myself I have sat quieter than I would prefer to really in seeking to protect a client.

I think it has moved beyond the point now where there is any conceivable method that Campbell can receive a fair trial and I move for a mistrial for Campbell or a severance at this point.

THE COURT: Overrule those motions.

MR. SCHIFFER: May we have the record indicate the prior answer to that question, your Honor? I would like the reporter to read the answer.

THE COURT: The record indicates what was said and what was asked and what the answer was. Proceed.

MR. SCHIFFER: Your Honor, in view of the fact that the witness now denies that he said that, I feel I have an absolute duty to refer to the record and point out to this witness if he may want to change his answer again but the record now refutes what he is now testifying to and I believe that in all justice to all defendants and to present

the truth for this very jury, they have a right to hear what this man has been testifying to when he denies what he said five minutes ago.

End Tk 14A
Tk 15 fls.

THE COURT: That is a matter you may argue to the jury at an appropriate time, whatever the record reflects.

MR. SCHIFFER: Well, to continue cross examination of this witness, your Honor, I want to refer to that question and that answer and it is the foundation for the next line of questions, but I can only refer to the record itself, your Honor, and the court reporter has the record.

THE COURT: State your next question.

BY MR. SCHIFFER:

Q I am going to ask this question: Did you testify, did you testify as a witness in this case on the same date when you had this alleged conversation with Mr. Hoffa in which he spoke about Larry Campbell, is it your testimony that you did not speak with Mr. King that same date?

A I didn't say that, sir.

Q Did you speak with Mr. King the same day?

A I said I didn't recall. I talked to him so many times I don't recall if I did or didn't, the exact dates.

Q Now, you looked at the hotel records when you were testifying for Mr. Hooker, you had them all lined up in front of you and you said you could testify to everything so long as you could look at all of the hotel records and in sequence lined up in front of you.

A I did not.

Q Now--pardon me?

A I did not.

Q You say if you had the records in front of you?

A I said it would refresh my memory as to approximately.

Q Used it to refresh your memory?

A I can't answer you, sir.

Q All right. You said it would refresh your memory. Now, may I ask you this question: Are you now saying to this Court and jury under oath that you did not testify that on the very same day that you had the conversation, as you say, with Mr. Hoffa concerning Larry Campbell, that you now do not remember whether you spoke with King the same day and left on an air plane and left Nashville that same day, is that what you are saying?

A I am waiting for you to get through.

Q That is my question and please stay with the answer.

A I don't recall exactly--I know I had a conversation with Mr. King, something about a highway patrolman prior to that.

Q Will you be responsive to my question?

A I wish I knew how.

Q Well, please follow my question again then and no matter how many ways you try to take me off the track, Mr. Witness, I will be back.

THE COURT: Mr. Schiffer, hasn't he said a number of times that he doesn't recall?

MR. NEAL: We ask that the last remark of counsel be stricken and he be admonished again to not engage in such comments.

BY MR. SCHIFFER:

Q That very day then, that very day that you said you had the conversation with Mr. Hoffa in which he said to you about Larry Campbell and a juror, tell us step by step what you have already testified to happened as an event and not by date but the way you say you remember it, what happened the first thing that morning up to the time when you completed the day.

A On the Campbell incident?

THE COURT: Yes.

A Well, the best I can recall, sir, on the thing I was getting ready to leave Nashville and I had been discussing with Mr. Hoffa how the trial looked and so forth and various ones and I said, "It didn't look too good, or something like that."

Q Pardon me, what time did this conversation take place?

A It was prior to me getting ready to leave, that's why I was talking to him because I was getting ready to leave.

Q It was prior to your getting ready to leave

THE COURT: Mr. Schiffer, hasn't he said a number of times that he doesn't recall?

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BY MR. SCHIFFER:

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A On the Campbell incident?

THE COURT: Yes.

A Well, the best I can recall, sir, on the thing I was getting ready to leave Nashville and I had been discussing with Mr. Hoffa how the trial looked and so forth and various ones and I said, "It didn't look too good, or something like that."

Q Pardon me, what time did this conversation take place?

A It was prior to me getting ready to leave, that's why I was talking to him because I was getting ready to leave.

Q It was prior to your getting ready to leave

Nashville, was it?

A Yes.

Q All right. Can you fix the time of day that was?

A I sure didn't, I sure didn't.

Q I am sorry, I didn't hear you.

A I said, no, sir.

Q All right.

A Okay. So then he called me and nodded his head where I went into his room. He told me not to worry too much, that he had the colored juror, male juror, in his pocket, that one of his business agents from Detroit had came in and this is what you are after, prior to the trial, and taken care of the colored male juror, that he was kin to him, that the colored juror was a retired railroad worker, that he could just see him sitting under a tree fishing, not a worry in the world, that he wouldn't take any money but that he wouldn't go against his own people and that they could get a hung jury, the best they could get was a hung jury unless they could get to the foreman and he--in essentially the words is what I am trying to do for you, sir, that a hung jury would be as good as a miss--let's see, a hung trial would be as good as acquittal because they never would try the case again.

That's essentially what I think I said to you, sir.

Q Now, was there court that day?

A I don't know, sir, I was leaving that day, I don't know whether I left before court, after court or what, I don't think I went to court.

End Tk 15
Tk 15A fls.

Q Have you already testified in this case as to when that conversation allegedly took place?

A As close as I could to the alleged time, I imagine, as you said.

Q I said, have you already testified as to what time this statement was supposed to have been made to you?

A What time?

Q Yes.

A Testified?

Q What part of the day?

A Testified here?

Q Yes.

A I don't remember, sir, it was when I was getting ready to leave, I told you that.

Q The moment you were getting ready to leave?

A What?

Q When were you getting ready to leave?

A Whenever I left that day. You have the plane tickets on there.

Q Now, I don't have the plane tickets, that's the one I asked you whether you deliberately destroyed it and you said you had no recollection.

MR. NEAL: No, he didn't say he had no recollection.

THE COURT: Sustain the objection.

MR. NEAL: I object to that.

MR. SCHIFFER: Why don't you take the stand and testify?

THE COURT: All right, gentlemen.

THE WITNESS: Just let him go ahead, he doesn't confuse me.

THE COURT: Proceed.

MR. NEAL: Your Honor, I bet your notes would show--

THE COURT: (Interposing) I think we will save time.

MR. NEAL: Very well, Your Honor.

THE COURT: To proceed.

BY MR. SCHIFFER:

Q Then directly after this conversation what did you do?

A I may have had a few more conversations, just casual conversation there maybe with a bell boy or anyone else, but I left pretty soon after the conversation.

Q So any conversation you had with anybody after that supposed conversation with Mr. Hoffa was not important enough for you to report to Mr. Sheridan,was it?

A I didn't say that, sir.

Q Well, it left no impact on your memory, did it, that anybody else that day had said anything which had to affect the trial.

A You question my memory, sir. I will tell you why I remember that because--

Q (Interposing) No, I don't want--

A (Interposing) That question--

Q (Interposing) I don't want to ask you why you remember, I am asking you a question, answer my question.

A I am answering you. I want to qualify my answer.

Q I am asking you this, I am asking you--

A (Interposing) And I want to qualify my answer.

THE COURT: Just a moment.

Q I am asking you without any qualification did you speak with anybody else that day concerning the jury tampering as you have alleged in Nashville?

MR. NEAL: Your Honor, I think he has answered the question.

THE COURT: Yes.

MR. SCHIFFER: I haven't heard him answer the question.

THE COURT: Sustain the objection. That's a matter we went over awhile ago where he said he didn't recall.

MR. SCHIFFER: I didn't remember that response, Judge.

THE COURT: I sustained the objection once before. Sustain the objection.

MR. SCHIFFER: He hasn't answered the question yet, Judge.

THE COURT: Well, if he recalls he may answer.

A I said I didn't recall any conversations of any importance that happened after that.

Q Now, when you say you don't recall, did you testify in this case here the conversations with others that you did recall when you were asked by Mr. Hooker, or the other attorneys who cross examined you?

A Yes, that's possible because some worked pretty close and I had been discussing that highway patrolman.

Q I am talking about that day before you left Nashville.

A Sir, I have answered you, I said I don't recall any specific things, it could have been just prior to me leaving or the day before or the day before that but--

Q (Interposing) Now, are you finished?

A No, sir, you won't let me.

Q Mr. Hooker asked you that question?

A You haven't let me finish yet, sir.

Q When Mr. Hooker asked you the question you didn't say to him, "I don't recall," did you, did you? Will you answer that question?

A I want to answer the other one you asked me first.

Q I am asking you when Mr. Hooker asked the question or other defense counsel cross examined you you didn't tell them you don't recall, did you?

A No, sir, I tried to relate the events as I remembered them to appropriate times and appropriate times that they happened.

Q Then you are telling us now that you tried to remember to the best of your ability but that at different times while you have been a witness here when you have been asked the same question in different ways, why, your memory was different?

A In different ways, sir?

Q In different ways.

A That's right.

End 15A

Tk 16 Fol

Q And you like to embroidery the truth, do you not?

A No, sir.

MR. HOOKER: We object to that.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Now, give us your best recollection of when you say you left Nashville that day?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Did you leave Nashville that day?

A According to the records here and your record you gave me I did.

Q You did?

A I said according to the records, sir.

Q Do you think the records are false?

A I didn't say that. I said they appeared to be correct as far as I can remember. I'm not an expert.

Q And you accept these records as being the truth?

A No.

Q You won't, your own hotel records you won't accept as being the truth?

A Not that I can swear. I said they appear to be. They appear to be.

Q And with whom else did you have any conversation

concerning the case before you left Nashville that day?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Did you speak with Mr. Sheridan that day?

A I'm most positive I did because this was one of the events that you are speaking of.

Q Not, no, positive is--, there are many possibilities. I'm asking you to remember if you are going to testify under oath what really happened, can you say yes or no? That you did or did not speak with Mr. Sheridan before you left Nashville that day?

A I can't answer yes or no. No, sir, I would guess I did.

Q Now, I didn't ask you to guess, didn't I just awhile ago caution you, I said tell us.

A No, sir.

Q And tell us what you really know, not what you are imagining, and guessing. Do you want to change your prior answer?

A No. You can ask me anything you want.

Q All right. Fine. Finally got a concession from the witness.

THE COURT: Disregard that remark of counsel. I don't know how many times the Court has to caution counsel.

BY MR. SCHIFFER:

Q Now, I'm looking at Page 3288 of the transcript. This is on direct testimony of Mr. Partin. Do you remember Mr. Hooker saying to you, this question, now, Mr. Partin I believe that you stated that you left Nashville that day? Answer, yes, sir.

Do you recall the question being put to you and that response?

A No, sir, that is six days ago. I cannot, constant changing, if you will refresh my memory I will be happy to.

Q You said that you could not independently as you sit here as a witness say with all honestly that that question was asked of you and you made that answer?

A It sounds like I did sir, but I don't know what you are reading off of.

Q Well, I am just referring to this transcript of testimony.

A That is what you say it is. It might be anything, though.

Q It could be anything? Do you mean then in your responses to the questions asked of you by the various attorneys, could have been anything what it says in here?

A No, sir, I said what you are asking.

Q It could be anything?

A The way you are asking them, sir.

Q The way I ask them, do you like the way Mr. Hooker asks them?

MR. HOOKER: We object. Argumentative and improper.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q You want me to ask questions like Mr. Hooker?

MR. HOOKER: Objection.

THE COURT: Sustain the objection.

THE WITNESS: Ask them any way you want it.

THE COURT: Just a minute. I sustained the objection.

BY MR.SCHIFFER:

Q In one of your prior answers, that you could not approximate at this time the hour or the approximate time of day that you left Nashville, after this conversation with Mr. Hoffa?

MR. NEAL: Objection, Your Honor.

THE COURT: Sustain the objection.

MR. BRANSTETTER: May it please the Court, several times this witness has made reference to some conversation of a third person other than any statement by Defendant Larry Campbell. Previous to this time the Court either struck that from the record or instructed the jury that any statements made by this witness as having been made by

some other person not in the presence of Larry Campbell nor with his knowledge and consent were not to be considered as in any manner against the Defendant Larry Campbell.

There have been a good number of references along that general line this morning and I would respectfully ask the Court at this time to again instruct the jury that any statements made by third persons not in the presence of Larry Campbell are not to be used in any manner against him not those are inadmissible against him.

MR. NEAL: Your Honor, that is not what the Court instructed the jury.

THE COURT: Well, ladies and gentlemen, the Court has upon several previous occasions had occasion to instruct the jury with regard to the alleged statements of one of the defendants made out of court as to when it might be or might not be considered as to any other party defendant. You will recall those instructions and apply them accordingly to the testimony this morning.

MR. SCHIFFER: May I proceed now, Your Honor?

THE COURT: Yes, sir.

MR. SCHIFFER: Thank you.

BY MR. SCHIFFER:

Q You indicated in your testimony that you were not an enemy of the Defendant Mr. Hoffa. Is that right?

A Yes, sir.

some other person not in the presence of Larry Campbell nor with his knowledge and consent were not to be considered as in any manner against the Defendant Larry Campbell.

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MR. SCHIFFER: May I proceed now, Your Honor?

THE COURT: Yes, sir.

MR. SCHIFFER: Thank you.

BY MR. SCHIFFER:

Q You ihdicated in your testimony that you were not an enemy of the Defendant Mr. Hoffa. Is that right?

A Yes, sir.

Q That is what you intended to convey?

A Sir?

Q That is what you intended to convey?

A I can explain.

Q That is what you intended to say?

A I can explain what I said, sir. I don't want you telling me what I say.

Q Well, suppose you answer my question for me without giving me historical answers. Didn't you mean to convey to this jury that you were not an enemy of Mr. Hoffa or Mr. Hoffa of yours?

A Personally, no, sir, union principles I disapprove of some of them.

Q Now, with union principles you disagree with him, were there any union principles concerned when you testified that you wanted to find out why Mr. Hoffa sold you out and pulled your bond?

A I said the rumor had been he had. I wanted to ask him about it.

Q What union principles were involved with your making that remark and I will read it to you. I wanted to-- On Page 3577, I wanted to find out why Mr. Hoffa sold me out and pulled my bond.

A You are reading part of it, sir.

Q Yes. I'm not going to read you the whole

transcript.

A That's right.

Q And pulled my bond.

A I can't answer you on the part you read alone.

Q You weren't angry with him because he pulled your bond, were you?

A I don't know that he pulled my bond or not, you didn't ask me the whole--

Q (Interposing) Will you answer the part I put to you and don't you start moving around here like a judge.

A I said I can't answer yes or no.

THE COURT: Just a moment.

MR. SCHIFFER: I again ask Your Honor to instruct this witness to be responsive.

THE COURT: Just listen to the question and respond to the question.

BY MR. SCHIFFER:

Q Your only disagreement you said with Mr. Hoffa was you said union principles, now what union principles were connected with your statement, I wanted to find out why Mr. Hoffa sold me out and pulled my bond.

A Sir, that was another part to that you are asking me. I can't answer you on the part you have asked me.

A I can't say, I can't answer part of the question, sir.

Q You said your only disagreement with Mr. Hoffa was on union principles, is that correct?

A I said the only issue you were trying to inject personally.

Q Just a minute. I am asking you a question, don't start off going in eight different directions. Answer my question.

Did you not say your only differences with Mr. Hoffa had to do with union principles?

A As far as personal differences.

Q I am talking about union principles.

A Union principles? I --

Q (Interposing) Didn't you say now --

A (Interposing) I recited them for you, sir, they are in the record, I will be glad to recite them.

Q I am asking you, did you not testify to this jury that your only differences with Mr. Hoffa had to do with union principles?

A Not the way you are asking it, sir, I did not.

Q You did not state that?

A You are asking part of the question, you are not asking it all.

Q Would you let me ask the question, please?

A All right.

Q Now, you want to reverse positions with me and the judge lets you and Mr. Neal gives you a license, well, let's reverse positions.

MR. HOOKER: Now, if your Honor please, this is not only taking up a lot of time, we submit it's entirely improper.

THE COURT: Sustained. Disregard the statement of counsel.

BY MR. SCHIFFER:

Q Didn't you state to this jury in your testimony under oath that the only differences you had with the Defendant Hoffa had to do with your view and his view on union principles?

A That was a partial statement.

Q That was a partial statement?

A Partial.

Q But that part that I have just related to you is the truth, is it not?

A You will have to ask me again, you kind of got me confused on what you got, two issues.

Q I don't want to confuse you, I just want the truth. Have you not testified before this jury that the only differences between you and the Defendant Hoffa were union principles?

A That was part of my answer, that was not all of my answer.

Q That was part of your answer.

A That wasn't all of my answer.

Q I'm not asking you if it was part of your answer or all of your answer, I am only asking --

A (Interposing) I cannot answer you then, sir, without qualifying it.

Q Just answer my question.

A I can't without qualifying it.

Q We'll get along famously.

A I say I can't without qualifying it.

Q My question to you, sir, is did you convey to this jury that your only differences with the Defendant Hoffa had to do with your divergent views of union principles?

A I cannot answer you without qualifying the answer.

Q I'd rather you didn't answer then.

A Good.

Q Rather than repeating and going over it again.

A Fine.

Q So I ask you when you said I wanted to find out why Mr. Hoffa sold me out and pulled my bond, would you tell this jury what big union principles were involved in this situation in view of that statement?

A I don't know. I tried to answer you and tell you

why I said that and you wouldn't let me, whoever it was stopped me.

Q I am asking you to relate to the jury, based upon your own testimony, what big union principles were involved?

A I can't answer.

Q When you say you wanted to find out why Mr. Hoffa sold me out and pulled my bond?

A I can't answer you without qualifying it, sir.

Q Would you say this, that if Mr. Hoffa had pulled your bond it would have been something which would have been a matter of difference between you and Mr. Hoffa, would it not?

A He may have had a reason, it might have been a legitimate reason.

Q I am saying to you, before you ever saw Mr. Hoffa to discuss anything, as soon as someone told you that Mr. Hoffa had pulled your bond you felt antagonistic to him, did you not?

A I can't answer you without qualifying it, you are putting words in my mouth.

Q I am asking, did you feel antagonistic when this was told to you?

A I said I wouldn't know until I checked with him. It could have been personal.

Q Let me ask you then the other way. Did it cause

you to have a great undying love for Mr. Hoffa when you heard this?

A I can't answer you without qualifying it.

Q You can't answer that?

A I said without qualifying it to you, sir.

Q Well, we don't want your qualification.

A All right. Okay.

Q We just want an answer to the question.

A I can't answer you yes or no.

Q So at this moment you cannot tell this jury whether you, when you stated, "I wanted to find out why Mr. Hoffa sold me out and pulled my bond," that feeling in your consciousness as you sit here now, you can't remember whether you were angry or you loved him?

A You won't let me tell it, I have tried to.

Q And again when you were being cross examined by Mr. Berke, I believe it was, you had been on the subject there about whether you are an informer, you remember Mr. Berke was on that subject?

A I have heard that.

Q That you were an informer?

A I have heard it quite a few times.

Q And I am referring to page 3574, line 17, where Mr. Berke says to you, "All right, what do you call it if you don't call it informing?"

"Answer: I would call it a fight for your life with Hoffa."

Do you remember that answer?

A I remember qualifying the statement.

Q Well, I will read -- I will show you the record here and I ask you to restrict your examination to page 3574 and you tell me whether you see any qualification after that answer.

A Maybe not there but I don't even need to read it because I know I qualified the answer.

Q You tell me whether you see a qualification on that page without turning the leaf.

A No, because I explain my answer on over, you just have the part you want me to see there.

THE COURT: All right, gentlemen, it's time for the noon recess.

Ladies and gentlemen of the jury, observe the usual instructions, do not talk about the case or let anyone talk to you about it and be back at 1:30.

Likewise, Mr. Partin, you observe the same instructions and be back at 1:30, sir. You may be excused.

(Thereupon, the jury of twelve and four alternates were excluded from the courtroom and the witness was excluded from the courtroom and in their absence the following proceedings were had, to-wit:)

End 17
17 a fls

THE COURT: All right.

MR. BERKE: If your Honor please, may we make demand on the government for the telephone calls, that is, the long distance calls shown on the exhibit on the Andrew Jackson Hotel, the various exhibits that we have here, I think there are eleven of them, and they are all long distance calls stated on those particular dates.

Now, those are the dates that we want the long distance calls, that is, a memorandum of the calls, who they were made to and so forth, which we are advised that the government has.

Now, we are calling on them at this time specifically for those particular long distance calls. I think that is specific enough.

THE COURT: All right.

MR. NEAL: Your Honor, if they are referring to long distance calls made from the hotel on those bills we turned them over, they had them to photostat, a bulk of them, and that is what we have got. I assume they are talking about--we have some telephone records we are going to put in when we get through putting them in we will turn them over.

If he will designate what they want to use, they can't interrupt our proof in this manner to get records from us.

MR. SILETS: Your Honor, this is the same matter

THE COURT: All right.

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If he will designate what they want to use, they can't interrupt our proof in this manner to get records from us.

MR. SILETS: Your Honor, this is the same matter

I asked about yesterday.

THE COURT: Yes.

MR. SILETS: It is not what Mr. Neal--it's not a traffic sheet, it's the individual toll tickets that the operator makes up and gives a copy to the guest when he leaves the hotel.

Now, it may be it is attached to Mr. Partin's guest slips, his bills, I don't know but, in any event, the--

MR. NEAL: (Interposing) You can see.

MR. SILETS: Excuse me, sir.

THE COURT: Just a moment.

MR. SILETS: The hotel keeps a copy of the toll slip.

MR. NEAL: Your Honor, I will check, if we have those, I don't think we have those sheets.

THE COURT: Well, if not, advise the Court.

MR. NEAL: But I don't think we have them. If we have them we will be happy to turn them over to Mr. Silets.

MR. BRANSTETTER: May it please the Court, I take this up, this very short matter with reference to the examination of this witness, and the request previously made to the Court that the Court fully instruct the jury that with reference to statements made third parties, may it please the Court, I think the record now is very clear that this matter has been covered a number of times with reference to

the Defendant Campbell and I make this specifically outside of the presence of the jury, that the questions that have been asked continuously with reference to the Defendant Campbell and the refusal of the Court to fully instruct the jury in accordance with my conception of the law and in accordance with the briefs that have been submitted to the Court on this matter clearly indicates that the Defendant Campbell at least is in an inconsistent position with the Defendant Parks at this point, insofar as his defense is concerned and there either should be a mistrial or a severance as far as the Defendant Campbell is concerned.

MR. HAGGERTY: Your Honor--

THE COURT: (Interposing) Allow the motion for mistrial and severance to be overruled.

MR. HAGGERTY: In reference to the telephone slips of New Orleans and Baton Rouge which were obtained by the government agents and are in the possession of the government, we request those at this time.

MR. NEAL: The what?

MR. HAGGERTY: The Baton Rouge-New Orleans telephone slips pertaining to Partin which the government subpoenaed. The telephone company says so.

MR. NEAL: We are going to put some records in, your Honor. Those records will be our next, the next witness or two. We are not going to turn them over unless

your Honor directs us to turn over exhibits to the defendants.

MR. HAGGERTY: Well, I don't say that they are their exhibits. I say, may it please the Court, they may be technically their exhibits but while we are cross examining and we have Partin on the stand and they pertain to Partin, we certainly should have them.

THE COURT: Well, I will allow you to examine Mr. Partin further with regard to any exhibits the government may introduce pertaining to his testimony.

MR. SILETS: Your Honor, this is the very problem which I have pointed out to the Court, I think last week in a motion for discovery.

THE COURT: Yes, it is the very problem I commented upon this morning, too, and indicated that the government should either produce the records or otherwise that the defendants would be permitted to cross examine this witness further with regard to that item or those items at such time as the government introduced them and it's not proper that the government should be required to introduce their evidence before they place it in evidence.

MR. SILETS: But, your Honor, what the government is doing by this method is restraining and refraining from giving to the defense these exhibits by claiming that they will be put into evidence by further witnesses. If they are relevant they should have been put in before this

witness took the stand so that we could have the basis to examine them.

Your Honor, this again is a situation where the government is, by their own tactics and maneuvering to keep from the defense records which are relevant, if they are not relevant why would they want to introduce them later on?

End Tk 17A
Tk 18 fls.

MR. NEAL: We tried to introduce them earlier. Then they would have objected to it on the grounds of irrelevancy, your Honor.

MR. ALEXANDER: May it please the Court, wouldn't it save time to produce them now while Mr. Partin is still on the stand rather than calling him back and taking up more time in this matter?

THE COURT: The Court has previously indicated its position on this matter. The government will produce any records, any reports --

MR. BERKE: (Interposing) I can't hear your Honor.

THE COURT: (Continuing) The government will produce any records that it may have as requested by the defendants with regard to the Witness Partin which they do not propose to introduce in evidence themselves. If they have them to the extent they have them. The Court cannot require them to produce any records which they do not have. As to any records which they themselves introduce by witnesses, if the defense desire to cross examine the witness about those records they will be permitted to do so at an appropriate time.

MR. HAGGERTY: May it please the Court, my request also concerned Local No. 5 at Baton Rouge, their telephone records.

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MR. ALEXANDER: May it please the Court, wouldn't it save time to produce them now while Mr. Partin is still on the stand rather than calling him back and taking up more time in this matter?

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MR. HAGGERTY: May it ple[illegible] my remarks also concerned Local No. 5 at Baton Rouge, [illegible] records.

THE COURT: All right.

MR. SILETS: May the record note my exception to your Honor's ruling?

THE COURT: Yes.

MR. SILETS: My position is that we should have those now at this time rather than wait until the government chooses and picks the time when they want to put them in evidence and give them to us.

THE COURT: All right, if there is nothing further, let's adjourn court until 1:30.

(Thereupon, at 12:08 o'clock, p.m., court was adjourned for the noon recess until 1:30 o'clock, p.m.)

18
fls

AFTERNOON SESSION

1:30 O'Clock P. M.
February 11, 1964

(Thereupon, pursuant to adjournment for the noon recess, court was in session.)

(Thereupon, in the absence of the jury and alternates, the following proceedings were had, to-wit:)

THE COURT: One moment, gentlemen. Yes.

MR. NEAL: May it please the Court, we do not have the slips Mr. Silets spoke of with respect to calls made by the Witness Partin out of either one of the hotels at which he stayed. We do have and I am now turning over all the records we have with respect to both long distance and local telephone calls of the James Robertson Hotel on the two days the witness has testified he stayed there. Of course, these calls are not limited to the calls made by the Witness Partin. They are all calls, long distance and local, made from the hotel on that date. These are all the records we have relating to the James Robertson Hotel.

We have heretofore turned over all the records we have with respect to long distance calls from the Andrew Jackson Hotel. And I am having someone now and they will be ready in about ten minutes, extract the local calls, all records of local calls, from the Andrew Jackson Hotel made on the days the exhibits indicate the witness Partin was

staying at the Andrew Jackson Hotel. We are extracting these merely as a convenience of the defendants, I first started to hand them over in bulk, but they are three volumes like that, traffic sheets of local calls from the Andrew Jackson Hotel.

We are endeavoring to take out the local calls corresponding with the days the witness stated he stayed at the Andrew Jackson Hotel. If that is not satisfactory we will turn over all calls at the Andrew Jackson--

MR. BERKE: Local and long distance?

MR. NEAL: You have the long distance calls. That was the first book we turned over. Then I assume that is satisfactory. Then that will be all the records of both local and long distance calls made from the hotel while the Witness Partin was in Nashville.

Now, I have also served on the Court and on counsel for the defendants government's response to the motion of Defendant Dorfman to dismiss or withdraw a juror or some such terminology with respect to alleged telephone call between Attorney Osborn and Mr. Hooker.

THE COURT: All right.

MR. HAGGERTY: May it please the Court, I have a matter which I may state publicly, but I desire to take it up in chambers and I ask that I be permitted to do so at this time.

THE COURT: All right, we will take it up in chambers then. Let's recess to the court's chambers.

(Thereupon, at 1:35 o'clock p. m. court was in recess and retired to the Court's chambers and the following proceedings were had to-wit:)

End 18A

k 19 fol.

THE COURT: All right, we will take it up in chambers then. Let's recess to the court's chambers.

(Thereupon, at 1:35 o'clock p. m. court was in recess and retired to the Court's chambers and the following proceedings were had to-wit:)

End 18A

k 19 fol.

(Hearing in chambers.)

THE COURT: Let's see, I believe Mr. Branstetter hasn't come in. Has he been notified?

Cecil, you got laryngitis today?

MR. BRANSTETTER: Rather roughly, Judge, yes. I thought maybe we might continue for about a week until I get my voice back but, no, that is not the purpose of this meeting, I am sure.

THE COURT: Yes.

MR. HAGGERTY: Are we all present, your Honor?

THE COURT: Yes, I believe so. Is there anyone that isn't present? If he will please say so--

MR. SCHIFFER: I waive Parks' presence.

MR. HAGGERTY: Your Honor, I am taking up a matter which has been taken up in court a number of times. We find--I speak for the Defendant Hoffa and for my co-counsel--that a condition has been created that is totally prejudicial, unsatisfactory and does not permit us, as counsel for the defendant, to prepare or offer a proper defense for the Defendant Hoffa.

We are forced in a position where we have appealed to your Honor on numerous occasions in reference to this question of surveillance which is of vital importance and a constitutional issue and your Honor has merely, to use the word advisedly, sloughed it off until some future time without any commitment as to when we may be heard.

Now, we are operating at the present time under armed guards, it has a military appearance, men in uniform in the corridors to guard us against intrusion and spying.

I say to your Honor that this condition is so unbearable that we feel as of this time we have no other recourse, if your Honor refuses to grant us relief, which I say we are entitled to under the Sinclair vs. United States, and immediately give us a hearing on our motion for surveillance, we have no other alternative but to seek recourse from the Sixth Circuit on whatever remedy that we deem advisable on petition to that Court.

Now, this is a strong statement and I didn't intend to bring it up in the public court for the newspaper consumption, so I make this final appeal to your Honor before we take such action as we feel we are compelled to do in properly representing as attorneys at law our clients.

THE COURT: All right. Mr. Haggerty, the Court has set a time, the Court will hear anything that you have to offer in this respect, as I have indicated, immediately upon the case being submitted to the jury. I do not feel that it is proper to interrupt the trial of the case at this time to conduct a hearing upon that collateral issue.

The Court has instructed the government with regard to the matter of surveillance and that if surveillance is being conducted or is conducted in the case under

circumstances that would, under the case law and under the law established by the Supreme Court, would prevent the proper representation that it would be grounds for a new trial as established in the cases.

If you feel under those circumstances that you should appeal to the Sixth Circuit certainly that is a matter that addresses itself entirely to your discretion and would address itself to the wisdom of the Court of Appeals as to what they feel should be done.

It is my judgment and my opinion that I should handle the matter in the manner in which I have just indicated and which I have previously indicated on the record.

MR. HAGGERTY: If I may answer your Honor, it is totally unsatisfactory to us so we have no recourse but to petiton the Sixth Circuit.

MR. BERKE: I would just like to add this, your Honor, I would like to state further, if I may.

MR. HAGGERTY: You go ahead.

MR. BERKE: That the problem is not getting the matter before your Honor after the jury is out, but the matter is preparing this case for trial day by day. If we bring witnesses up we have to bring them past an armed policeman, a man in uniform or a guard there. The witnesses are frightened and appear to be intimidated. The attorneys are nervous about the situation.

We can't properly defend a case. We are just appealing to your Honor that your Honor should recognize that fact and say, "Well, now, the government violated--no, they can't violate the law," but the injunctive process of the Court is much stronger than just the merely stating, "Well, if it's a violation of the law everybody knows we shouldn't violate the law."

Now, the government is violating the law. I am not naive enough and I don't think the Court is to think that the government would prosecute itself for violating the law. It might be a different situation were we surveilling the government witnesses, but the situation is now where the government themselves are surveilling us, myself, I, as counsel for the defendant, and, as I stated before, it's a ridiculous situation.

I can't sit down and talk to Mr. Hoffa. Mr. Hoffa is worried about people listening in. Mr. Haggerty don't want to talk with us. We try to go out somewheres and maybe talk, we get followed.

Now, that is the situation that shouldn't be tolerated. It's a situation that the Court should, by use of injunctive process. Now, you say you don't want to delay the trial of the case. We could hear it at 4:30, nine o'clock, ten o'clock, any time that would not interfere with the jury trial and the time, if the time is any

element we are ready to hear this thing at 4:30, five o'clock, seven o'clock, any time that the Court will do it and we will stay and we know that the Court is a worker and is not afraid of working.

We think that this thing should be done now because we have already been handicapped.

THE COURT: Well, of course, there is an apparent issue of fact here. The defendants say they are being under surveillance and properly the government says that they are not. At such time as it will not interfere with the trial of the case I will certainly grant a hearing upon that. I do not believe that it would be proper to interrupt the trial of the case at this time and do so, that is, interrupt the trial of the case at this time and conduct a hearing upon that issue.

Anything further?

MR. HAGGERTY: Yes. I would ask your Honor's cooperation to authorize the court reporter to certify the transcript up to date so that we may have it in the Appellate Court.

THE COURT: I would see no reason why that shouldn't be done.

MR. REDDY: It's certified every day, isn't it, Mr. Reporter?

THE COURT: I see no reason why that shouldn't

be done.

MR. HAGGERTY: Pardon me just a minute, sir.

End Tk 19
Tk 20 fls.

MR. HAGGERTY: I would also ask further, your Honor, that this sealed envelope which was handed to your Honor by Mr. Schiffer be sent to the Appellate Court in order that they may have that information before them.

THE COURT: All right.

MR. SCHIFFER: As Exhibit "A," your Honor.

THE COURT: I would see no reason why it should not be except for the fact that exhibits may be needed here including that exhibit until the trial of this case is over. I wouldn't want to release any exhibit that would in any way prevent the procedure in this case.

MR. HAGGERTY: Your Honor has taken a firm position that there cannot be a hearing on this question of surveillance?

THE COURT: No, I haven't, Mr. Haggerty.

MR. HAGGERTY: Until after, until after the jury goes out, I take it?

THE COURT: Until after we have completed the jury proceedings, yes, sir.

MR. HAGGERTY: All right, the jury proceedings. Now, there is nothing in that sealed envelope that can be used in this trial until such, until that time.

THE COURT: We've had occasion to go back and reopen sealed exhibits such, for example, Exhibit No. 114. We had to go back and reopen that exhibit.

MR. HAGGERTY: Well, this one is such, the secret in nature, that it was sealed and given to your Honor. Nobody knows the contents but your Honor and the man who made it.

THE COURT: Well, if all counsel will agree that there will be no request for further use of those exhibits in this trial, certainly those sealed exhibits can be made available and can be sent up, is there any objection?

MR. ALEXANDER: I will not agree to that. I don't know whether we may need them.

MR. HAGGERTY: I'm only requesting the one that you are not concerned with, Mr. Alexander, and that is the one that was handed in in behalf of Mr. Schiffer's motion yesterday which is a sealed envelope and to disclose it without permission of the Court or the Court of Appeals it may be, it may be a crime, something you know nothing about.

MR. NEAL: If it is a crime, isn't it a crime to file it as a court record?

MR. HAGGERTY: I didn't get your question, Mr. Neal.

MR. NEAL: I think if it is a crime you mean the divulgence would be a crime?

MR. HAGGERTY: It is not to the Court under the circumstances. The only person it is divulged to is the Court. I don't know what is in it. No attorney knows what is in it.

MR. NEAL: I see. I see.

MR. SILETS: I thought your Honor had ordered copies turned over to the government?

THE COURT: Ordered copies?

MR. SILETS: Yes, maybe I misunderstood, but I thought of this secret document, I don't know what it contains.

THE COURT: These documents that you have been referring to were delivered unto the Court for inspection in camera by the government.

MR. HAGGERTY: By the Court, not the government, by the Court. Not the government.

MR. NEAL: We asked for a copy of it. I'm not sure whether we received a copy of it yet.

MR. HAGGERTY: Then that becomes the discretion of the Court if he gives it to you.

THE COURT: What documents?

MR. BERKE: He misstated it.

MR. HAGGERTY: I am only speaking of this sealed envelope that was handed to you, your Honor, in support of Mr. Schiffer's motion.

THE COURT: Oh. Oh. Oh, yes.

MR. HAGGERTY: That is the only one.

THE COURT: The exhibit to Mr. Spindel's --

MR. HAGGERTY: (Interposing) That's right.

MR. BERKE: That is all he is talking about.

THE COURT: Well, again, I would see no reason why that should not be done. We can make a copy of it for the purposes of our records here. And let it be made available, the original, made available for the Court of Appeals, I see no reason why that couldn't be done. Does anybody have any reason?

MR. NEAL: Is counsel for the defendants saying now they don't know what is in the envelope?

MR. HAGGERTY: No, sir, I don't know what is in it and I don't think Mr. Schiffer knows what is in it.

MR. NEAL: Mr. Schiffer, do you know what is in it?

MR. SCHIFFER: I'm not going to tell you.

MR. NEAL: I call for you on the record.

MR. SCHIFFER: I don't believe that you are asking a proper question. I am an officer of the court.

MR. NEAL: How can they make a motion, your Honor, in good faith without knowing what they are presenting to the Court?

MR. SCHIFFER: If the government takes an action which is based on bad faith and violates the law itself, the defendants have a right to expose that to a court. And I am here as an officer of this court and of the court of appeals of this district, this judicial district, and of the United States Supreme Court, and I feel my bounden duty that when the

government partakes of illegal activity, I have an obligation of the court to expose it.

MR. NEAL: I don't want to get into a contest with Mr. Schiffer.

MR. SCHIFFER: Well, it is no contest.

MR. NEAL: Certainly I am no master of him in vituperation, but I think we can discuss this as lawyers as a legal matter, I don't see how counsel can make a motion based on something and then not tell the Court whether he has read the supporting material or not. Presumably, I have seen the motions. It is an affidavit in support of the situation particularly filed as Exhibit "A."

THE COURT: Anybody is entitled to have a copy of it. It is a matter of court record in there. It is a motion that has been filed. It is an exhibit to a motion and it is a court record. There is no reason why anybody that wants a copy of it cannot have a copy of it.

End 20
20 a fls

MR. HAGGERTY: May I reply to Mr. Neal?

MR. NEAL: No.

MR. HAGGERTY: I am speaking for Mr. Hoffa, and the appeal will be Mr. Hoffa's and I will tell you that I have not, do not know anything about the contents.

MR. NEAL: Did I question your statement, Mr. Haggerty?

MR. HAGGERTY: No, but I want to inform you.

MR. NEAL: I am not questioning your statement but I am asking Mr. Schiffer if he knows what is in the contents of that envelope? I think that is a legal matter.

MR. SCHIFFER: The only way I can answer that--

THE COURT: (Interposing) Just a moment, gentlemen. I am sure the reporter must have difficulty when several speak at once.

MR. NEAL: I feel as a legal matter that counsel should not file a motion alleging surveillance like this and support that by certain documents if he has not seen the document, how can he do that in good faith? That is my only question.

MR. SCHIFFER: Well, the documents will speak for themselves, the ones that you read will speak for themselves.

MR. NEAL: I know, but as to a legal matter whether the Court should grant a hearing as to what this--

TRAP 7.

MR. SCHIFFER: (Interposing) I take the same position on the law as the government has taken on this case and the Nashville case out of which this arose, in that the government has taken upon itself and by what fiat I don't know. I haven't seen a reported case to support this position but they have been running up and forth with Judge Miller throughout the first case.

They ran up and forth with Judge Miller. They tried to do it, the same thing when your Honor sat on December the 20th in Nashville by handing up and making statements in open court for the record about handing up to the judge secret documents about which defendants have no knowledge, not allowed to see them, when they supplicate the Court and ask, Judge, only for due process, your Honor, let us be aware of what the government has in its possession, what is this veil of secrecy certainly thrown against the defendants and the Court also takes the position, oh, well, this is the government, they have handed something in in a sealed envelope. I will see it, but you can't see it.

We are supposed to be defending an issue of law or series of issues, but so long as the government takes the position that they have the right and the fiat, you see, to submit something to the Court in a sealed envelope for the Court's perusal, I certainly on behalf of the defendant will not take a secondary position behind them when I have

caught them violating the law of this country.

The government representatives, and under those circumstances I feel the same privilege, if it is going to be accorded to the government, I say the same position for Defendant Parks.

Your Honor has a sealed envelope. Now, there are certain documents in there which have been gathered only to assist this Court, not to assist me, but to say what is going on this case. They made an armed camp of Chattanooga. This is a very peaceful and quiet city. If you look around as I go to talk to potential witnesses, I think I am followed by a police state organization. There seems to be more on the streets at least there are more marshals than residents of Chattanooga.

There are more FBI men walking around in and around my hotel. I can't step out to even talk to a witness. How am I supposed to then react when the government partakes of sealed documents, the defense can't see them, I have handed down as an officer of the court solely to assist the Court in due process in performing its constitutional performance, I have given that secret document to the Court. The Court can do whatever it will with it, you see.

MR. NEAL: May it please the Court, that is not the issue.

THE COURT: Gentlemen, aren't we off the issue

here?

MR. SCHIFFER: He raised the issue.

MR. NEAL: I still am raising it.

MR. BERKE: I don't want to agree with Mr. Schiffer. I have this respect for the Court, the Court can do anything it wants to with this document, if your Honor please, this is something that was submitted to the Court. Now, the defendants don't know what is in there as far as I am concerned and as far as Mr. Haggerty is concerned, we don't know what is in it and I don't believe Mr. Hoffa knows what is in it.

Now, if the Court were to go ahead and give that to Mr. Neal and let him see what is in it and then they know what it is, we don't know, we have a witness I am sure that does know what it is, would certainly be an unfair advantage.

We do not want and we insist that the Court keep this document sealed until the time of the hearing comes up because we say that they will have an unfair advantage against the defendants. It will give one side of the case, that is the attorneys there, knowledge of what is in it when we don't know what is in it and we are only asking for the very simple thing. The government has sealed a document which the Court has sealed, Mr. Neal knows what is in it, the Court has sealed it, we don't know what is in it, now--

THE COURT: Now, Mr. Berke, the matter of any sealed document the government has submitted is only in accordance with the well-established law in regard to Jencks statements or in regard to the well-established law with regard to grand jury minutes. Now, the defendants have filed a motion in which they have filed exhibits to it. That motion and those exhibits are in that. They are a part of the Court records. Anybody has a right to matters that are in the Court records. If you can cite to me any law whereby that the Court has a right to seal exhibits that are filed by motions or with motions, filed by the defendant, I will certainly be happy to consider it.

End Tk 20A
Tk 21 fls.

Tk 21
H1

THE COURT: If there is a Jencks act that applies to that situation or if there is a rule in regard to Grand Jury minutes that applies to that situation I will be glad to hear it but we are getting off the point here.

Mr. Haggerty raises the question as to whether or not that motion and the exhibit to that motion could be made available on any step that might be taken to ask the Court of Appeals to pass upon this matter and the Court sees no reason in the world why it should not be made available and a copy will be made available, will be made and filed in the court record for our purposes here so that we will not be without any record of what was sent up there.

MR. SILETS: Your Honor, if I may be heard, I don't know what this thing is but assuming this was an atomic energy case and assuming the government filed a document or motion and attached to it a sealed document and it contained state secrets?

Now, the Court, upon consideration of the motion, would ascertain the nature of the contents and upon a determination of the nature of the contents would determine whether it stays the state secret, should be exposed or not.

Now, if this is a state secret, for example, then that would be, when Your Honor calls for authority, that would be authority for the proposition that the court need not disclose this.

I think the decision must rest until after the Court has ascertained the contents. I don't know what the contents are but when you ask for authority, the immediate authority that comes to my mind is a situation of a state secret. It is a state secret.

Now, for all I know this may be such a thing, it may involve the Attorney General of the United States, something that he has done in his cabinet position, I don't know.

THE COURT: Well, gentlemen, I don't know what is so secret about it. The exhibit, the first affidavit to the motion is an affidavit by Mr. Spindel, as I recall the name, and Mr. Spindel says that he is an expert in intercepting messages and in wire tapping and in that connection he was called to Chattanooga by the defense on Monday of last week and that he has conducted activity along that line as set forth in Exhibit No. A or Exhibit B, which is attached, and it's Exhibit B is what we're talking about here.

MR. SILETS: I have not seen this motion but I can from--

THE COURT: (Interposing) I assume it is the responsibility of the parties to file copies of everything they file and give it to other counsel, certainly other counsel are entitled to copies.

MR. NEAL: The point I am making, Your Honor,

I would like, still like to know if Mr. Schiffer has seen the contents of it.

Here's a document submitted by a well-known wire tapper, a man who was indicted and tried with the Defendant Hoffa.

MR. SCHIFFER: Was he acquitted?

THE COURT: Gentlemen, I can't see any advantage to pursuing this line of inquiry at all.

Mr. Haggerty has stated his motion and he has stated his request as to the exhibit that be made available and the Court thinks that the exhibit should be made available and the Court thinks that if the parties desire to request the Court of Appeals to act upon this that that is a matter that addresses itself entirely to the discretion of the counsel and to the Court of Appeals.

MR. BRANSTETTER: Could I inquire has the Court--, I don't know, I merely inquire--, has the Court opened this envelope and read the contents?

THE COURT: I have opened the envelope, I have read it and I filed it in the court file and it has been filed public.

MR. NEAL: Is a matter of public now?

THE COURT: It's been a matter of public.

MR. BERKE: The Court has made it a public matter now, in other words?

THE COURT: I opened it and filed it with all exhibits.

MR. NEAL: The Court is not saying it made that a public record.

THE COURT: I certainly am saying that.

MR. NEAL: I beg your pardon.

THE COURT: I filed the matter, made it a matter of public--

MR. NEAL: (Interposing) Whoever submitted it to the court divulged it.

MR. BRANSTETTER: Mr. Neal is trying to get him another case, may it please the Court.

MR. SCHIFFER: May I inquire, Your Honor, with reference to the Defendant Parks on the matter before Your Honor now?

Would Your Honor reconsider allowing us a hearing on this surveilance because right now under these trying conditions I cannot prepare his defense adequately. As an example I will point this out, the witnesses, of necessity, being what they are, in many cases are or in a few instances at least, but they are vital witnesses, are illiterate people in the sense that they have had no or very little formal education.

These people are in fear, as it is almost a natural fear,of anybody in a police uniform.

Secondly, when they hear the word "FBI" they are ready to drop dead at the term.

Thirdly, they are in a position whereby instinct and by heritage and by what they hear to this very day that anybody who testifies against the government, in the sense they never realized that they are testifying for the defendant and giving testimony in a law case, but especially in this case they feel that they would be testifying against the government and I say to Your Honor, in all fairness to all concerned, and certainly to my Defendant Parks, that these kind of witnesses are frightened and they are objectively frightened by the numbers of FBI men, or whoever they are representing the government, carrying on this surveilance and as a result the sources of testimony of themselves is drying up, Your Honor.

If I should issue a subpoena or a forthwith subpoena on any given date I am afraid these people, out of fear alone, will not testify under any condition.

This is what I face in preparing the defense in this case. The defendant here has pleaded innocent, he is not guilty. This is what his position is. As a result he is to be afforded what due process calls for but, secondly, I don't want to leave this record devoid of another comment which may be persuasive with the Court, and I say this, and I mean this with my whole being and my integrity, if there

was one single living person who I place at the head of the whole parade of this country it's J. Edgar Hoover, and I am willing to wager anybody that J. Edgar Hoover himself does not know what went on down here with this surveilance and using members of his FBI to conduct this kind of illegal activity.

THE COURT: Why did you subpoena him then if he didn't know?

MR. SCHIFFER: I did not subpoena him, Your Honor, I did not subpoena him. We are here because we are forced to be here.

MR. BERKE: I summoned him, Your Honor.

MR. SCHIFFER: However, I'm saying this, I know the splendid organization that J. Edgar Hoover has built over the course of a lifetime and I will tell you this as an American citizen I feel very bad, I feel very hurt to see a lifework of one single individual of the utmost integrity, the most proveable integrity, to see that organization taken and used as a political tool, as is being used in this case, and I must say that as a whole picture I think they have taken the FBI and ruined its reputation with what has happened down here.

We are living now in an FBI police state, if you please, Your Honor, in this case. We know we are being shadowed. We know we are being prevailed upon by all of

21-7

these means of shadowing and all the rest of it. They want to prevent us from giving our evidence and getting it into this court the way a defendant constitutionally has a right to do and the FBI is being used for those sorted ulterior motives and I can only say to Your Honor with my whole integrity to you as a judge of the court and to the court itself this court has the power to stop it. This court has the power constitutionally to see that a defendant does get a fair trial.

End 21

21-A fol.

But it is not only Parks who is being harmed here, your Honor, you and your court are being sullied by another agency of our government here. They want to prevent the constitutional function of your court, you see, to prevent your Honor from securing all the evidence in the case so that when you make a ruling it is made on law and facts which have been submitted.

Now, then, if the Court itself is being trod upon by this agency of the government what is a poor defendant like Parks to do to protect himself? All I can say in fairness to your Honor we throw ourselves on the protection of the Court, it is the only way in which a defendant can secure for himself what is guaranteed by our laws in this nation and our constitution. It is only you in this case who has the initial power to remedy this evil and if this evil is not remedied now and a hearing held now your Honor is being used as a tool by the government and another agency of the government to see to it that in effect, in any legal true sense, Parks is deprived really from putting in his defenses which are guaranteed to him by the basic law of this country and I say this that smacks of Stalinism and Hitlerism and Mussolinism and all these ism's that this country has spent all of its precious blood to keep away from our shores. It isn't people coming from the outside doing this to us now it's our own people in government and I say in the face of a situation

like that we can only appeal to your Honor to correct this evil.

How many days longer can we go with this trial here when we know and we recognize and we feel day and night and day and night that Parks, among the others, is being deprived of his right to effective counsel, he is being deprived of every vestige of a right to present his defense? What can we do except appeal to your Honor? You are the only one with the power to cure this evil and stop it. By the time this case is presented to the jury, I don't know how much longer this case will go, but to that extent, at least, it is again a further negation of all the rights, natural and legal, that belong to the Defendant Parks and the others.

THE COURT: All right.

MR. SCHIFFER: Thank you for listening to me.

THE COURT: All right. Well, let's go back to the courtroom, gentlemen.

(Thereupon, the Court, the parties, and counsel for the respective parties returned into open court where the following further proceedings were had, to-wit:)

End 21a
22 fls

(Thereupon, back in the confines of the courtroom, in the absence of the jury of twelve and four alternates, the following proceedings were had, to-wit:)

MR. NEAL: May it please the Court, we are turning over the rest of the records referred to just before the break.

THE COURT: All right.

MR. NEAL: Break for the in-chambers conference.

MR. SCHIFFER: If the Court please, before the jury is brought in, may I make this request, so that we can shorten this trial and certainly proceed with proper procedure.

Will the Court instruct Mr. Neal not to jump up at every given moment and make these asides which he is making and so that your Honor won't have to again or any time in the future in the progress of this case have any cause to call down lawyers on any side of the issue?

THE COURT: All right. Mr. Neal, of course, has a right to make objections, but let's keep it truly objection and refrain from arguments that are directed for the jury. Making objections like any counsel should.

MR. SCHIFFER: May we have him directed again by the Court to be responsive, your Honor, I think we will move along famously if he once understands the direction of the Court.

THE COURT: All right. Have the witness return.

(Thereupon, the Witness Edward Grady Partin, returned to the witness stand for further cross examination and the following proceedings were had, to-wit:)

THE COURT: Mr. Partin, counsel has assured the court that we can move along and complete your examination in the case rather promptly if you will pay careful attention to the questions and answers and answer them responsively. And not volunteer information. Make your answers as brief as you can consistent with telling the truth.

THE WITNESS: Yes, sir.

THE COURT: All right, have the jury return.

(Thereupon, the jury of twelve and four alternates were brought into the courtroom and in their presence the following proceedings were had, to-wit:)

THE COURT: You may proceed, Mr. Schiffer. You may continue, Mr. Schiffer.

BY MR. SCHIFFER:

Q Mr. Witness, did I understand from your prior information and testimony, that just as soon as an event occurred while you were in Nashville, in October, November, and December it was your practice to call Mr. Sheridan that same day?

A I would try to, yes, sir, as soon as possible.

Q As soon as possible, and did you do so on most occasions?

A Any occasion I could reach him, yes, sir.

Q And drawing your attention to November 7, did you make any disclosure or have any talk of any kind with Mr. Sheridan concerning events of that day?

A It is possible, sir.

Q All right, if I show you the hotel bills of that day would that help you refresh your memory?

A Not as to the exact date, no, sir. I could guess. I'm sure that --

Q (Interposing) I don't want you to guess.

A Okay.

Q If you cannot answer exactly --

A (Interposing) All right.

Q Did you ever make a record of anything concerning any event which occurred on November 7, 1962?

A What kind of a record, sir?

Q Any kind of a written record?

A Oh, not written, no, sir.

Q Did you at any time ever sign any report concerning a fact which may have occurred on November 7th, according to your testimony?

A I don't remember the exact date, sir. I signed a report that went to the, as I gathered, from the other day, went to the judge.

Q You signed a report which went to the judge?

A Yes.

Q Now, you are speaking now of Judge Miller who sat in the court, United States District Court in Nashville?

A Yes, I believe it was Judge Miller, sir, the one that was --

Q (Interposing) And was that during October, November, or December 1962?

A I think it was in December, sir.

Q And where is that report?

A I guess it is -- I don't know, sir, to be honest with you.

Q To whom did you give it to?

THE COURT: Mr. Schiffer, do you not have the report?

MR. SCHIFFER: Well, I don't know whether we are referring to the same documents yet, your Honor. May be another document which he is referring to which I should like to receive and make a demand for based upon his testimony.

THE COURT: All right.

BY MR. SCHIFFER:

Q With reference to this report that you signed, to whom did you give it?

A Mr. Sheridan I believe, sir.

Q And do you think it was sometime in December that you gave that to him?

A The best that I can recall, yes, sir.

Q And who was present when you signed this report?

A I don't believe anyone was, sir. It is possible someone was there but I don't think so.

Q Wasn't Mr. Sheridan there?

A Yes, sir.

Q And was it handwritten or typed, what form was it?

A It was typed, sir.

Q And how many pages did it consist of?

A I'm not positive. I don't think it -- it was a short report. It could have been part of another page. The best I can remember it was one page and maybe part of another one, I'm not positive, it wasn't a long document.

Q And to the best of your recollection only Mr. Sheridan was present at the time you signed it?

A The best I can recall, sir.

Q Now, did you swear to that document, the report?

A I believe I did. I beg your pardon. I believe someone did if I'm not mistaken. It was notarized.

Q And where was it that you signed this document in Nashville?

A In Mr. Sheridan's apartment, I believe.

Q In Mr. Sheridan's apartment?

A I believe so.

Q And what date -- well, let me withdraw that. This

report that you swore to, and signed that at Mr. Sheridan's apartment, which you think was one sheet or maybe a sheet and piece of another sheet --

A (Interposing) It may have been two sheets. It wasn't too long of a document because when I read it, it didn't take long, it didn't take too long.

Q Now, was that made the same day of the event which you tried to describe in the document?

A I couldn't swear to that, sir. The date I can't swear to.

Q I am not speaking of the dates now particularly, I'm saying that your custom was as I understood your testimony as soon as an event be recalled that you wanted to speak to Mr. Sheridan about you usually told him about it soon as you could right after the happening of the event?

A I don't believe it occurred on the same date. It is my best recollection it didn't.

Q Now, did it happen day before or week before, how long before did the event happen?

A I said as to my recollection I couldn't tell you. It wasn't too terrible a long time before that.

Q Wasn't it what?

A It wasn't too terrible long before that. I can't be exact on the dates.

Q As of this time, when you signed and swore to this

document and the document and gave it to Mr. Sheridan, do you recall whether the jury was already sitting at the trial in Nashville?

A I believe they were, sir.

Q Now, did you ever have a conversation with Judge Miller about that document?

A I don't recall, sir. I don't think so.

Q That is your best recollection, you do not think so?

A I don't believe I did, sir, no.

Q Did you speak with any FBI agent or other investigators concerning that document?

A It seems like someone either notarized it or something, I'm not positive. I didn't speak to another FBI agent that I know of, no, sir.

Q Did you ever speak with any FBI agent concerning the contents of that document either before or after you signed it?

A I don't think so, no, sir. I don't ever remember discussing it with anyone.

Q Haven't you spoken about it with Mr. Sheridan?

A Well, I have admitted that, sir.

Q Do you mean in addition to Mr. Sheridan you have no recollection?

A I said that I can recall not anyone.

Q Did you speak to Mr. Neal about it?
A No, sir, I don't believe so.
Q Did you ever discuss it with Mr. Shaffer?
A No, sir, I think Mr. Sheridan was the only one take --
Q (Interposing) Did you ever speak about it with Mr. Durkin?
A Sir, I've tried to tell you as far as I can remember Mr. Sheridan was the one that I spoke to in regard to the document.
Q I know you said Mr. Sheridan, but I'm speaking now of government lawyers.
A I said that is all I can remember, sir.
Q Well, I'm trying to refresh your memory by specific things.
A I said I can't recall any others.
Q Did you ever speak with Mr. Hooker about it?
A No, sir, I don't think so.
Q But you are not sure?
A Well, I'm sure. I don't ever remember being discussed with anyone but Mr. Sheridan so won't be any occasion.
Q Well, you have discussed this case with Mr. Hooker, haven't you, before you became a witness here?
A Not concerning -- I have admitted that to you, sir,

as far as --

Q (Interposing) Well, just answer my question.

A Will you let me answer you then, Mr. Schiffer? You asked me a question.

THE COURT: Just a moment, just a moment. Let him answer.

BY MR. SCHIFFER:

Q Have you spoken with Mr. Hooker about the case before you became a witness here?

A Yes, sir.

Q Yes or not?

A I can't answer you yes or no.

d 22
fls

Q Too difficult for you to say yes or no whether he--

A (Interposing) Not as far as damage--

THE COURT: (Interposing) Mr. Schiffer, wait a minute. You changed questions. Let him answer the question.

MR. SCHIFFER: I'm trying to make it easier for him.

THE COURT: You're not making it easier by interrupting. Let him answer.

A I spoke to Mr. Hooker concerning the case, not the documents.

Q In other words, in all your conversations with Mr. Hooker before this trial you never saw or discussed with him the documents which you had signed?

A No, sir, I don't remember ever discussing or ever seeing it any more since I saw it with Mr. Sheridan.

Q Did Mr. Sheridan indicate to you what he had done with that document after you signed it and gave it to him?

A No, sir, he didn't tell me what he done with it. I understood they had a hearing or something just from conversation and that the Judge held it, that was just from hearsay, I couldn't swear to what was done with it.

Q I believe you, a little while ago, stated that it was not a handwritten document, was a typed document, is that correct?

A The one I signed I believe was typed, yes, sir.

Q Was typed. Now, then you said you thought it was over at Mr. Sheridan's apartment?

A The best of my recollection it was, sir.

Q In Nashville. And how long were you in his apartment that time that you signed the document?

A It wasn't too long, sir, I don't think. I never did stay there--, I don't remember going there only but one specific occasion, it could have been twice or maybe--, but I don't think so, maybe three times.

Q Was this document already typed when you arrived at his apartment?

A The best I can remember it was, sir.

Q When was the first time that Mr. Sheridan spoke with you about the contents of that report which you say you signed?

A Well, that was the first time that I even knew what it was all about then.

Q You mean then on the day when you actually physically signed and swore to the contents of the document that was the first time you had spoken with Mr. Sheridan about the contents of the document?

A No, not about the contents, sir, I said.

Q Well, I asked you about the contents. When is the first time that you discussed with Mr. Sheridan the

contents of that document?

A That would have been over a period of time, I couldn't exactly say what date.

Q But it was before you saw this typewritten sheet of Mr. Sheridan?

A Before I signed it I discussed it with him, yes, before and after.

Q The information which you gave Mr. Sheridan concerning the contents of that document, did you give that to him verbally or did you give him that in writing?

A Well, sir, I told you I never give him anything in writing.

Q At the time you gave him this information concerning that particular document, the contents of that document, did he write down in your presence what you told him?

A Sir, I would imagine he was taking notes, I wasn't looking over his shoulder to see what he was doing, I was--

Q (Interposing) Well, he was facing you, wasn't he, when he was talking with you?

End 23 A Usually, sir, he would sit down, we wouldn't sit

23 fol. side by side.

Beg.23A Q And you saw him writing what he wrote you don't know.

A I don't know, as I said, he could have been doodling, I don't know, I have seen him.

Q Well, did you see him doodling or writing?

A I didn't see him doing anything that night, sir, on any of the information I gave him you are speaking of.

Q I am speaking with reference to the contents of that particular document to which you say was signed and sworn to.

A Sir, I don't know whether he wrote anything down or not because it could have been over a period of time he got it, I don't know how he arrived at what was in the document.

Q And you don't, at this moment you can't tell us at any rate, whether the information you gave him concerning the contents of that document you had given to Mr. Sheridan at one session or at several sessions?

A No, sir, I don't imagine it would have been one session, I am not positive of that.

Q Well, could you give us the best recollection you have, could you throw your mind back on the event itself and tell us whether as to the contents of that report you gave to Mr. Sheridan at one sitting with him or as the result of several conferences with him.

A I don't think it was too much of conferences only, I don't think it was too much conversation in regard to it,

sir.

Q But there was more than one, you say.

A I couldn't swear to that, sir, it was so many events that I talked to him about that the one I couldn't say, it was more than one, it could have been.

Q It could have been but I am speaking now only with reference to the contents of that one report which you signed and swore to.

A And I answered you, sir.

Q Well, I didn't understand your answer.

A I said I couldn't swear to it.

Q Now, just a minute.

A You won't--

Q (Interposing) Will you tell me to the best of your recollection, and confining the question only to the contents of the report which you say you signed and swore to, now, I am not speaking of the day when you signed it, I am speaking about prior dates as to the dates when you gave the information to Mr. Sheridan concerning what was in this document which you signed, as to that information which you gave to Mr. Sheridan did you give that information in one session with him or two sessions or more?

A It may have been one call and one talking to him in person, it may have been two phone calls and two talking to him in person, I think the major part would have been

confined to one conversation, but I couldn't swear to it.

Q You could not swear to that. Now, were you at any time interviewed by Mr. Sheets or any other FBI agent concerning the contents of that particular affidavit or report, as you call it?

A Sir?

Q Which you had signed?

A I don't know Mr. Sheets--, if you will identify-- I don't think I was ever questioned by an FBI agent myself, I don't know who they were, if they were.

Q Would you say--, are you meaning to imply then, as I understand you, that your only contact with the government has been Mr. Sheridan and Mr. Grimsley here, there, or the other place, but primarily your contact with the government was with Mr. Sheridan?

A Primarily in regard to the information, yes, primarily.

Q With Mr. Sheridan?

A Yes.

Q Now, it's a fact, is it not, that as of the date when you reported to Mr. Sheridan, as you have testified.

A Sir, I couldn't hear you. The other counsel, I couldn't understand you, I am sorry. Would you repeat?

Q Do you have a complaint with the other counsel?

A No, sir, he was over there distracting or talking

and I couldn't hear you.

Q It is a fact, is it not, that when you alleged that Mr. Hoffa made this statement to you about Larry Campbell having been in Nashville before the trial that at that time to which you referred no jury had been impaneled in this trial in Nashville.

A I am not positive but it seems strange when he told me that I wondered about it.

Q You wondered about it?

MR. NEAL: Objection, Your Honor, it's repetitious.

MR. SCHIFFER: I haven't asked it that I remember.

THE COURT: It has been asked previously. Proceed.

BY MR. SCHIFFER:

Q And you also said that this juror Fields was kin-folk to Larry Campbell, isn't that correct?

MR. HOOKER: We object to that. That has been asked, if Your Honor please.

MR. SCHIFFER: Well, I'm trying to lay a foundation to get to another subject and get finished with it, Your Honor, and I will.

THE COURT: It is repetitious. Proceed.

BY MR. SCHIFFER:

Q Will you answer the question?

A Repeat it for me, sir.

Q You told Mr. Sheridan when you say you reported to

him on the incident that Mr. Hoffa said that the juror was kin-folk to Larry Campbell?

A That is the way it was given to me, sir.

Q That is the way it was given to you?

A Yes, sir.

Q And of your own knowledge do you know whether Larry Campbell and the Juror Fields in fact are kin-folk?

A No, sir, I do not know.

Q You don't know that. Did you at any time talk with Mr. Sheridan about Paschal?

A Oh, sure, yes, I am sure I did.

Q You are sure you did. What did anyone have to say to you about Mr. Paschal?

A What do you mean by "anyone", sir?

Q That you reported to Mr. Sheridan.

A I mean--, do you mean the government attorney, officials, or the defense or who?

Q Well,the name is Paschal. What did anybody tell you about Paschal in connection with that case?

A Well, Mr. King had several conversations with me in regard to Paschal.

Q You spoke with Mr. King?

A Oh, yes.

Q About Paschal?

A Yes, oh, yes.

Q And is King the only defendant you spoke with about Paschal?

A No, sir, it was discussed, Mr. Hoffa discussed it several times, I have heard him discuss it.

Q Now, did Mr. Hoffa indicate to you that he knew Paschal?

A No, he just said--, the conversation indicated to me, he said he at least would have taken the money so it would have pinned him down or something along the line.

Q That's not responsive to my question. Did Mr. Hoffa indicate to you that he knew Paschal?

A Oh, no, sir, not individually, no, sir.

Q Did you so report to Mr. Sheridan?

A I don't think I would have reported something he didn't, as far as knowing him, I don't think I said Mr. Hoffa said he knew Paschal.

Q You never reported that to Mr. Sheridan, did you?

A I am sure I didn't, sir.

Q Mr. Sheridan never wrote that down in his notes as having come from you, did he?

A I can't swear to what Mr. Sheridan done in regard to what he done with what I gave him.

Q Did you ever speak with Mr. Paschal yourself?

A I don't know the man, no, sir.

Q Did you ever?

A If I did I don't know him.

Q Did you ever speak with Mr. Fields?

A Not that I know of, sir.

Q In your travels in and around Nashville in October, November, and December did you meet a patrolman by the name of Walker?

A Walker?

Q Walker in the city of Nashville.

A I don't recall anyone like that.

Q Could you describe him?

A I don't know how to describe him if I don't even recall him.

Q You don't know him at all?

A If I do I don't know him by name, no, sir.

Q The name is not familiar to you?

A It's a name but I don't think it was a patrolman, I think it was a deputy that I talked to in the coffee shop.

Q Did you at any time use the name Walker in these reports to Mr. Sheridan?

A I don't believe so, I could have but I don't think so.

Q At all?

A No, sir, I didn't.

Q Who was the deputy Walker you are speaking of?

A I didn't say he was a deputy, Walker.

End 23A

Tk 24 fol.

Q Well, you just say it was somebody by that name who was a deputy, not a patrolman?

A I did not.

Q What did you mean when you said deputy?

A I said the only meeting where I found out he was a deputy, described himself as a deputy, when I drank coffee on the corner with somebody said he was an investigator, deputy, or something. An attorney from Lebanon or somewhere.

Q Investigator or deputy for whom?

A He didn't say. He had an attorney. He said, asked something about football. He talked to me about football. Said he was doing some investigating.

Q Was that not connected with this case?

A No, sir, it is not unconnected, but I didn't remember it at the time.

Q Did you convey that to Mr. Sheridan?

A I am not sure, couldn't swear to it.

Q Did you see Mr. Sheridan write it down?

A I may have not have even talked to him in person. I couldn't swear whether there was a conversation--

Q (Interposing) When you talked to him on the phone, can you remember his writing it down?

A I don't remember his saying not to proceed. I imagine a person in his position don't need to.

Q Now, with reference to this deputy you speak of,

you say his name was not Walker?

A I don't believe so, sir. I don't remember what his name was.

Q You don't remember the name then of this person you refer to as a deputy, you can't remember his name at all?

A I said he was a deputy, either investigator or he indicated he used to be a deputy or investigator with someone he identified as an attorney.

Q I am asking you, you didn't remember his name, do you?

A Not offhand, sir, I don't.

Q Did you ever write it down?

A No, sir, I didn't.

Q Did you ever call him on the telephone?

A I don't think so. I believe I reported to Mr. Sheridan about the meeting.

Q Did you ever visit with the man?

A Only out in the cafe is the only time I can remember.

Q Was he a colored gentleman or white gentleman?

A They were both white.

Q Which bar did you meet him at?

A I didn't say I met him at a bar, sir.

Q I thought you had indicated some drinking place or cafe?

A No, sir. You indicated that, I didn't.

Q Did you say cafe?

A Yes, sir.

Q Well, in a cafe, does one secure whisky?

A Well, this is a small hamburger place right on the corner. I don't think they had anything but just hamburgers and Cokes and coffee.

Q Who was the attorney that was with him?

A I don't know, sir. I don't know his name.

Q Did you report his name to Mr. Sheridan?

A I don't think I knew his name. I just told him that who the people described them to him. I may have, but I don't think so. I don't remember a name.

Q When you were there in this cafe talking with him, what was the subject of conversation?

A They had been up to, I had seen them previously, upon the floor up there, but they was talking to Mr. Hoffa. He was trying to help. He was doing some investigation work. If I am not mistaken he was doing investigation work for Mr. Osborn. I am not positive of that.

Q You are not positive of that?

A No, sir, I am not positive. He just introduced me to the fellow he said was an attorney, I believe--

Q (Interposing) When you came before the grand jury--

MR. NEAL: (Interposing) Wait just a moment, I don't think he finished his answer.

MR. SCHIFFER: Beg your pardon if he didn't.

THE WITNESS: He identified the other fellow as some attorney from out in the--called off some small town on the outside of Nashville. I forget it now. He wasn't from Nashville.

BY MR. SCHIFFER:

Q Have you completed your answer?

A Sir?

Q Have you completed your answer?

A Yes, sir, at the time.

Q When you appeared before the grand jury in this case and were asked about Mr. Paschal, isn't it a fact that you took the protection of the Fifth Amendment to the Constitution of the United States?

A Yes, sir.

Q You did?

A Yes, sir.

Q And how many times did you take the protection of the Fifth Amendment of the Constitution of the United States when you appeared as a witness before the grand jury?

A Sir, I don't recall.

Q Could you approximate the number of times?

A It was quite a few but I can't recall.

Q Could you approximate it the number of times?

A It was quite a few but I can't recall.

Q You could not approximate it for us?

A No, sir, because I can't tell how many questions they asked there.

Q When you came before the grand jury, was it your intention to tell them the truth?

A Well, Mr. Buffalino told me to take the Fifth.

Q Just a minute, please be responsive to my question. When you came before the grand jury an oath was administered to you, was it not?

A Yes, sir.

Q You raised your right hand and swore on the Bible?

A Yes, sir.

Q To tell the truth?

A Yes, sir.

Q At the time when you appeared before the grand jury and you were sworn, was it your intention that you would tell them the truth?

A Anything I told them would be the truth, yes, sir.

Q Would be the truth, then, they asked you questions and as a result of these specific questions, they put to you, you decided and elected to take the protection of the Fifth Amendment to the Constitution?

24 - 6

A Not until I qualify my answer, Mr. Schiffer.

Q I'm asking you a question.

A I cannot answer that.

Q Did you in response to a subpoena--

A (Interposing) No, I did not.

Q Please--

THE COURT: (Interposing) You may answer and then make any explanation.

End Tk 24
Tk 24A fls.

BY MR. SCHIFFER:

Q I'm asking you one question, after you were sworn as a witness, you were questioned, questions were put to you in the Grand Jury, as a witness, and did you under response to these specific questions or any of them invoke the protection of the Fifth Amendment to the Constitution?

A Yes, sir, I did.

Q Of the United States?

A I said I could qualify.

Q Just a minute.

THE COURT: Let him finish his answer.

MR. SCHIFFER: He never let's me finish the question, Your Honor.

MR. NEAL: Your Honor, the witness is entitled to finish this answer. He has been asked and is definitely entitled to finish.

THE COURT: Let him finish the question.

THE WITNESS: Because Mr. Buffalino told me prior to going to Nashville he had given me a written statement and then made me copy it off on paper of how to take the Fifth Amendment when I got to Nashville.

BY MR. SCHIFFER:

Q Now, when you spoke with Mr. Buffalino you had a conversation with him before he gave you any legal advice, did you not?

A Oh, yes. I guess I did. I showed him the subpoena I had.

Q Well, you came to him for legal advice, did you not?

A No, sir, that wasn't the purpose of coming to him.

Q Oh, you said you had a subpoena but you did not come to him as a lawyer for legal advice?

A I didn't know him as an attorney. He never practiced what I would call law. They had a house attorney there that I would have went to for legal advice.

Q October, November, December, 1962, in the city of Nashville this case was going on, you knew that Mr. William Buffalino was an attorney of record for Mr. Hoffa and sat at the counsel table and partook of the trial, every day, isn't that correct?

A Part of the time, he did,yes.

Q Well, you knew that, did you not?

A Yes, sir.

Q And you knew he was an attorney in October, November and December, 1962, did you not?

A I wasn't positive.

Q I am asking you did you not?

A I said sir he acted part of the time. Part of the

time he didn't.

Q Oh, you saw him at the counsel table?

A Yes.

Q You saw him getting up and making objections on the record but you didn't know?

A Oh, yes, sir.

Q But you didn't know he was an attorney?

A I said yes but the attorney for the union to get advice was not Mr. Buffalino. They had a house attorney in Washington.

Q I'm not speaking now of the house attorney or any other attorney, I'm only talking about Mr. Buffalino, Mr. William Buffalino, when you got a subpoena to appear before the Grand Jury, you then went to seek out Mr. Buffalino to speak with him about the paper, the subpoena which had been served upon you, is that correct?

A I have answered you on that, sir.

Q Well, I'm asking you, isn't that correct?

A I didn't seek him out for legal advice. They had told us anyone that got one to let them know.

Q All right, then you went to see Mr. Buffalino concerning this subpoena?

A To let him know. I didn't go to see him because I could tell him that on the telephone.

Q You called him on the telephone?

A I said I could have told him that on the telephone.

Q I know, but you came to see him personally, didn't you?

A I didn't go to see him personally, Mr. Schiffer.

Q I'm saying, didn't you bring him the subpoena to talk with him about the subpoena?

A Several of them looked at the subpoena.

Q I'm asking you, sir, when you came to Mr. Buffalino, did you not before this jury--

A (Interposing) You won't let me answer you, Mr. Schiffer.

Q If you at least listen to the question and be responsive, is it not a fact that when you received the subpoena to appear before that Grand Jury, you then for whatever reason took the subpoena and met Mr. Buffalino?

A I can't answer your question like you want it answered without qualifying it.

Q I just want an answer to the question the way I put it to you.

A I can't answer you.

Q My question to you again is, you said you had received a subpoena to appear before the Grand Jury, you did receive such a subpoena, did you not?

A Yes, sir.

End 24A

Tk 25 fol.

Q Now, when you received this subpoena eventually you did meet with Mr. Buffalino personally, is that true?

THE COURT: Answer if you did or didn't.

A Yes, sir, I met with him personally.

Q All right. And you showed him the subpoena, did you not?

A I'm sure I did, sir.

Q Now, as of the date when you saw Mr. Buffalino with this subpoena it was long after you had seen him acting as attorney in the Nashville case, isn't that correct?

A As I said, sir, part of the time yes, yes, I will do anything to get you happy.

Q All right. Now, then you had a conference with Mr. Buffalino concerning the subpoena, is that correct?

A I have answered you unless I am ordered to all I intend to, sir.

THE COURT: Answer.

Q You will answer more than you intend to.

A Beg your pardon?

Q You will answer more than you intend to.

MR. NEAL: This is --

MR. SCHIFFER: (Interposing) He made the statement himself.

BY MR. SCHIFFER:

Q Now, in addition to Mr. Buffalino, after you re-

ceived this subpoena and prior to and during the time after you received the subpoena did you speak with Mr. Neal before you went into the Grand Jury session?

A Sir, I don't recall speaking with Mr. Neal. I think I got up and went directly and I don't believe I did, no, sir.

Q Did Mr. Sheridan take you into the Grand Jury?

A No, sir.

Q Who took you into the Grand Jury?

A Some attorney that I was told to contact in Nashville.

Q In Nashville. Did he go into the Grand Jury room with you?

A No, sir, he took me to the door.

Q I didn't get your answer, I am sorry.

A He took me to the door, sir, and waited outside for me.

Q And you spoke with no government attorney at all before you went into the Grand Jury to testify?

A I may have called one of them and told them I was there, which I probably did.

Q Now, who were the government attorneys in the Grand Jury when the questions were put to you?

A I believe Mr. -- what was the name you called off a while ago?

Q Mr. Shaffer was one of them?
A I believe he was one of them.
Q Was Mr. Durkin there?
A I believe he was, sir.
Q Was Mr. Neal there?
A I am not positive of Mr. Neal, he could have been.
Q Did you at any time in Nashville see him working with the Grand Jury?
A No, sir, I don't believe so, I wasn't there that long, I may have seen him in the hall or somewhere like that.
Q And did you see any other counsel that you can name as having been in the building and on the floor with the Grand Jury or assisting them in or out of the Grand Jury room who represented the government?
A I believe there was only two, sir.
Q Just two?
A I believe so.
Q That was before Mr. Shaffer, you said, and Mr. Durkin?
A The names sound like that was the two, I mean, I don't know them well enough to just say that was the names for sure.
Q Were you introduced to them in the Grand Jury room as government -- were they introduced to you as government counsel?

A I was told, I forget who told me who they were and they told me, I believe they told me who the Grand Jury foreman was.

Q Had you ever indicated to any government counsel or to Mr. Sheridan or any other official connected with the government that you were going to consult with Mr. Buffalino about your appearance before the Grand Jury pursuant to subpoena?

A Well, I am sure I let them know I was going there, it was the policy to.

Q It was the policy?

A To let them know where I was at, not to consult with them.

Q So you actually told government counsel that you were going over with this subpoena to consult with Mr. Buffalino about your appearance before the Grand Jury?

A I didn't say that.

Q Well, that's how I understood you. My question -- then I will rephrase it -- did you indicate to any government counsel, to Mr. Sheridan, to any official connected with the government after you had received the subpoena or the day you had received the subpoena, that you were going to see Mr. William Buffalino and consult with him concerning your appearance before the Grand Jury pursuant to that subpoena?

A I doubt if I went into a conversation as such like that.

Q Did you report to Mr. Sheridan that you had a subpoena and that you were going to see Mr. Buffalino?

A I don't think I would have said, "I am going to see Mr. Buffalino." I may have said I was going to Washington.

Q And prior to the date when you received the subpoena had Mr. Sheridan or any government counsel or anybody connected with the government told you to expect a subpoena to appear before the Grand Jury?

A I don't believe so because I got it at an unexpected place.

Q I didn't get the final part of the answer.

A I said I wouldn't say they did because I got it in an unexpected place.

Q You got the subpoena in an unexpected place, did you say?

A Yes, sir.

Q Now, then all of this time that you have testified to up to the time you stepped into the Grand Jury room, whatever name you choose to give it, you were giving information concerning this defendant and the others to Mr. Sheridan, isn't that correct?

A I wouldn't think --

Q (Interposing) That's what you testified to?

A Will you repeat? You interrupted me, sir, I didn't understand.

Q In the year 1962 and into '63, up to the time you appeared before the Federal Grand Jury in Nashville pursuant to subpoena you had been giving information concerning these defendants to Mr. Sheridan, that's what you testified to, is that right?

A I didn't say that, sir, you said I testified.

Q Listen to my question.

A I did, that's why I answered it the way I did.

Q I'm asking you this question, you have testified here in this case as to your relationship with Sheridan and what you had been telling him, right?

A I have, sir.

Q Now, I ask you all during that 1962 and up to the date in 1963 that you appeared before the Grand Jury in Nashville you had been conducting your relationship with Mr. Sheridan, giving him the information which you have related here?

A I didn't say that, sir.

Q Do you understand the question?

A Yes, sir, I understand what you are trying to do.

Q Do you understand what I am trying to do?

A Yes, sir.

Q Please tell me what I am trying to do.

A You are trying to make me say I gave information after the court --

25a-3

Q (Interposing) No, I am not at all. Let me disabuse you of that, it's not the purpose at all. I am simply asking you a very simple question. All of the time of 1962 up to the point where you received the subpoena to go into the Grand Jury in Nashville in 1963, according to your testimony, you had the relationship with Mr. Sheridan which you have related on the record here, isn't that correct?

End 25a
25b fls

A Sir, what I related on the record is correct.

Q Well, now, I am asking you and isn't it true that up to the time you appeared before the grand jury and someone had given you this subpoena that you had been up to that point at least getting this information in '62 to Mr. Sheridan?

A In '62?

Q Yes.

A Yes, sir.

Q Right?

A Right.

Q And in '63, whatever the time was when they gave you the subpoena, you remembered what you had told Mr. Sheridan in '62, is that correct?

A Do what now?

Q At the time you received the subpoena and you were going into the grand jury room to testify as a witness you remembered everything you told Mr. Sheridan as you have testified to for days in 1962?

A I probably could have just about like I told you here today.

Q All right, then--

A (Interposing) I said I probably could have.

Q Now, when you went to Mr. Buffalino, as you say, did you go to Mr. Buffalino to inform on him for any reason to Mr. Sheridan?

A To inform on who?

Q Were you looking to inveigle Mr. Buffalino into making a statement when you came to him as a client and to discuss this ubpoena before the grand jury, were you then looking to inveigle Mr. Buffalino into saying something which you could then carry back to Mr. Sheridan?

A I didn't see anything to get him involved with, sir, I wasn't interested in getting anyone involved.

Q At no time in your whole career in 1962 you had no interest in seeing anybody get involved in anything?

A What you are saying, are you trying to make it look like I try to trap someone as such? No.

Q Well, you used the term, sir, that's you, not me.

A You are a brilliant teacher.

Q I may be a brilliant teacher but I have never laid claim to it. I have now seen the expert.

Let me ask you, did you have in your mind a thought that when you went as a supposed client to Mr. Buffalino to get advice on your appearance and testimony before the grand jury in 1963 pursuant to a subpoena issued by the government, did you have a thought in your mind to try to inveigle Mr. Buffalino into making some kind of a statement that you could then report back to Mr. Sheridan or some other official or person connected with the Federal Government?

MR. NEAL: Your Honor, I object to the question. The witness has testified that he didn't go to Mr. Buffalino to consult about the subpoena.

THE COURT: He answered the question.

MR. NEAL: Object to being repetitious.

THE COURT: I say, he answered the question once just a few moments ago, but state your question.

BY MR. SCHIFFER:

Q Now, did anybody take any pains of the government counsel to explain to you what it means when you take the Fifth Amendment protection in the grand jury room?

A Not the government counsel, the other counsel told me that.

Q Other counsel. Did they go into depth on explaining the law to you?

A He just gave me a typewritten sheet.

Q I am asking you, did anybody take any pains to explain to you what the law was as it applies to the Fifth Amendment to the Constitution of the Unites States?

A He just wrote out what he wanted me to say.

Q I didn't ask you that. Did anybody explain the law itself to you?

A Oh, no, sir.

Q As to under what conditions you are permitted to take the protection of the Fifth?

A Well, he said that was a standard form they was using.

Q I am not talking about a standard form. My question to you is did anybody explain to you the conditions under which a witness before a grand jury is permitted to take the protection of the Fifth Amendment to the Constitution?

MR. NEAL: Your Honor, I object to that. He has asked and answered that.

MR. SCHIFFER: I didn't hear an answer to it yet.

THE COURT: Allow him to answer.

End Tk 25B
Tk 26 fls.

MR. NEAL: Your Honor--

THE WITNESS: Sir, the only information I got was what Mr. Buffalino gave to me in writing and made me write it down in my own handwriting so I wouldn't have the copy of it that they could trace back.

BY MR. SCHIFFER:

Q I am asking you, did any attorney explain to you the conditions under which the citizen of the United States could invoke the protection of the Fifth Amendment to the Constitution before a Grand Jury?

A He said that had been researched. I guess he meant he had studied it.

Q Did you explain to Mr. Buffalino the facts and circumstances under which he then told you as a lawyer you had a right to invoke the protection of the Fifth Amendment?

A Did I do what, sir?

Q Did you give him the facts concerning what you had received a subpoena for and upon those facts tell you you had a right to take the Fifth Amendment?

A He just told me everyone was getting them. Said they had a standard form typed out. Use this.

Q Would you please be responsive to my question?

A Sir, I can't answer you the way you want me to.

Q I want you to answer me the truth if you can.

A I'm trying to. I said I wrote it out from a copy

Mr. Buffalino gave me.

Q I'm not talking about what you wrote out. Please listen to the question. Did you give, when you came in to see Mr. Buffalino, with this subpoena, did you explain to Mr. Buffalino that you had the subpoena, and I understood you did, aside from Mr. Buffalino and including Mr. Buffalino, did any lawyer for the government or for anybody else, but did any lawyer explain to you the law and the conditions under which it is lawful for a witness--

A (Interposing)

Q (Interposing) For a witness before a grand jury to invoke for himself the protection of the Fifth Amendment to the constitution of the United States?

A Not in detail, sir, if that will satisfy you.

Q When you say not in detail but it was discussed with you, is that so?

A By Mr. Buffalino, sir.

Q Then he went into the law of the Fifth Amendment?

A No, sir, he gave me a typewritten sheet. Said write this down--

Q (Interposing) I am not talking of typewritten sheet. I'm talking about an explanation of the law to you and until you answer the question I will be asking it I assure you.

A I can't answer it like you want it answered.

Q You came--, how long were you with Mr. Buffalino at the time you came in and gave him the subpoena? Or showed him the subpoena with which you had been served?

A Do what?

Q How long had you been with Mr. Buffalino on that visit with him when you gave him this subpoena and showed him you had received it?

A Wasn't too long because they were busy that day.

Q When you say wasn't too long, approximate the time for it.

A I think he spent ten or fifteen minutes with me just guessing.

Q Altogether?

A I said they were pretty busy that day.

Q And when you were served with the subpoena where were you served with it?

A On a picket line in Baton Rouge in a cafe.

Q In a cafe on a picket line in Baton Rouge?

A Yes, sir.

Q Was that U. S. Marshal that served it?

A He showed his credentials. I take it he was.

Q And he gave you the subpoena?

A Yes, sir.

Q How much time was there from the time he served you with the subpoena that you had to appear before the Grand

Jury pursuant to that subpoena?

MR. NEAL: Your Honor, we object to this to be irrelevant to any issue before the jury.

THE COURT: Overruled.

THE WITNESS: It wasn't too long, sir.

BY MR. SCHIFFER:

Q Now, when you say not too long, none of us can understand what you mean; how many days, weeks or months, whatever it was, will you please advise the jury?

A It wasn't into the months, no, sir, it was in the days.

Q Matter of days?

A Yes, sir.

End 26

26-A fol.

Q Then you said you had to go to Washington to see Mr. Buffalino about it?

A I didn't. I said to go to Washington to see him about the subpoena.

Q Why did you see Mr. Buffalino?

A In Washington, sir.

Q In Washington?

A Yes, sir.

Q So from Baton Rouge I take it you flew to Washington, D. C., and visited with Mr. Buffalino in Washington, D. C., where you had this approximately 15 minutes conference with him about the subpoena, is that right?

A That's right.

Q Now --

A (Interposing) But I --

Q (Interposing) Aside from Mr. Buffalino --

MR. NEAL: (Interposing) Wait just a moment, now, your Honor, he is entitled to go ahead and answer.

MR. SCHIFFER: How much more can he answer than that's right.

THE WITNESS: Because I was going to explain why I didn't have that much time.

BY MR. SCHIFFER:

Q We are not interested in that.

A I know you are not.

Q You said you spent 15 minutes.

THE COURT: All right, he has answered the question.

BY MR. SCHIFFER:

Q Now, then, had you prior to the time you came to Washington and consulted with Mr. Buffalino, spoken either on the telephone or in person with any attorney or other representative of the government concerning the fact of this subpoena that you were being served with?

A I couldn't swear to it, but I would be almost sure I spoke to Mr. Sheridan about it.

Q With Mr. Sheridan, Mr. Sheridan advised you to await the subpoena, is that correct?

A Do what now?

Q To await? You are going to be served with a subpoena?

A I don't remember getting any advice that way.

Q Well, did Mr. Sheridan indicate whatever way he did, did Mr. Sheridan indicate to you that you would be served with a subpoena for the Grand Jury?

A Well, I expected to. I mean he wouldn't have had to have told me. I would have expected to be served.

Q When you said you expected it, had you not in fact received information from Mr. Sheridan that you would be subpoenaed for the Grand Jury?

A Not that I can recall, sir.

Q Why did you mention Mr. Sheridan a moment ago?

A Because Mr. Sheridan is the gentleman I had the most contact with, sir.

Q Is that the only reason you mentioned his name?

A Well, that would be the only reason I would be talking to him.

Q So you are saying now that nobody in the government including Mr. Sheridan alerted you to the fact that you were going to be served with a Grand Jury subpoena?

A I don't think so. I may have asked him was I going to be served or told him I had been served. I don't know whether it was before or after I got it because I certainly expected to be served with a subpoena because I thought I was going to have to tell the information to the Grand Jury that I told to Mr. Sheridan.

Q And whether it was before or after you did have a conversation with Mr. Sheridan concerning the subpoena calling for your appearance before the Grand Jury in Nashville?

A I couldn't swear but I would just guess I would have told him.

Q You are still guessing about that?

A Sure, I couldn't swear to it, but I would imagine I would have.

Q Now, who was present when you came into Washington

and spoke with Mr. Buffalino about this subpoena?

A Present in front of him? When I talked to him?

Q When you spoke with Mr. Buffalino about the subpoena?

A I think I was sitting in an anteroom. He come by and told me as I said, real busy until I can tell you what they were doing, I can't tell you why but we wasn't allowed to go in too much. I sat there pretty well all day trying to talk to different people.

Q Who else was present when you spoke with him and he spoke with you about the subpoena?

A Mr. Buffalino is the only one I remember. I know that I had seen Mr. O'Brien I believe there. And some gentleman sat there half a day with a briefcase waiting to talk with them. I had sat outside with him.

Q You state you were there about 15 minutes and then they were too busy?

A They were real busy.

Q And were you there half a day, too?

A I was there quite a bit sitting at least half a day I would guess.

Q All right, then. Who was present now can you tell us when you spoke with Mr. Buffalino about the subpoena?

A If you can tell me how many times you want me to answer you I will.

Q I haven't heard you answer it yet.

A I said I think Mr. Buffalino was by himself.

Q By himself, you think by himself?

A That is what I said.

Q And in what room and in what building did you consult with Mr. Buffalino about this subpoena?

A International Headquarters.

Q And in what room were you in in International Headquarters?

A I believe we had went down to the right from the waiting room. I don't know which room we went into. He talked to me some standing up just as you go in the conference room or room of some kind in there.

Q Was it his office?

A It may have been. They have several offices there and they use one another's sometimes.

Q And so you went in this office with Mr. Buffalino where this conversation took place, can you tell us in that room who else was present besides --

A (Interposing) I never have told you I went into any room, sir.

MR. NEAL: Your Honor, this is repetitive. It is just like talking about who won the World series as far as the issue in this case.

MR. SCHIFFER: I still don't know who won it.

MR. NEAL: Well, ask him.

THE COURT: It is quite repetitive. Let's move along.

MR. SCHIFFER: He can tell you who killed cock robin.

THE COURT: Let's move along.

MR. HOOKER: I would object to that but that is the only amusing thing I have heard him say.

MR. NEAL: The first time I knew he had a sense of humor.

BY MR. SCHIFFER:

Q Did anybody advise you, any lawyers for the government, that when you were served with a subpoena and you appeared before the Grand Jury actually as a witness, and you were sworn in, that you should take the protection of the Fifth Amendment?

A No, sir.

Q No one?

A Not that I remember ever mentioning it. I think I told them I had been told to take the Fifth Amendment.

Q Was this in the Grand Jury you said that someone had told you to take the Fifth Amendment?

A You know better than that, sir.

Q I'm asking you, I'm trying to understand what you are saying.

A I'm not stupid.

Q Did you say in the Grand Jury someone told you to take the Fifth Amendment?

A No, sir, I did not.

Q You never mentioned Buffalino's name in the Grand Jury, did you?

A I didn't have opportunity, sir.

Q Were you asked?

A I don't know how many questions were asked or what they were all about.

Q Were you asked any question and was any reference made to Mr. Buffalino in connection with your taking the Fifth?

A I think they asked me about phone calls I had made on several dates and so forth.

Q I'm asking you was any question put to you in the Grand Jury in connection with your having spoken to Mr. Buffalino and Mr. Buffalino advising you to take your rights under the Fifth Amendment?

A Certainly not, sir.

Q Certainly not. All right. Now, anybody tell you that it is a crime to take the Fifth Amendment in front of the Grand Jury? Let me finish the question, please. Did anybody tell you that it is a federal crime for a witness before a Grand Jury to invoke the protection of the Fifth

Amendment when in truth and in fact that they are not doing that in a lawful spirit provided by law under which you can take the Fifth?

End 26a
27 fls

A I had always--

MR. NEAL: (Interposing) Your Honor, that's no law.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Did anybody tell you--

MR. NEAL: (Interposing) The witness--

Q (Interposing) That it would be perjury on your part to invoke the Fifth if you had gone in there by pre-arrangement with an understanding with someone else to invoke the Fifth when in fact you did not have to invoke the Fifth, that you could give truthful answers to the questions.

MR. HOOKER: That's argumentative, we object to it.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q When you took the Fifth Amendment before the Grand Jury did any government attorney protest to you that you should not take the Fifth Amendment?

A They talked kind of gruff like.

Q I couldn't hear you.

A I said they talked gruff like, they asked quite a few questions.

Q Who were these attorneys who were asking you the ruff questions?

A You name them off, I don't know them by name.

Q You said Mr. Shaffer was there and Mr. Durkin was in there, is that right?

A You said that and I said it sounded about right.

Q And Mr. Durkin is the attorney who was sitting in this seat alongside the government counsel table here while you have been on the stand, is that correct?

MR. NEAL: Your Honor, we object to that.

MR. SCHIFFER: I wanted to identify him.

MR. NEAL: Repetitious.

THE COURT: Sustain the objection.

MR. NEAL: Irrelevant.

MR. SCHIFFER: I wanted to identify him.

BY MR. SCHIFFER:

Q Did Mr. Shaffer object to your taking the Fifth?

MR. NEAL: Objection, Your Honor. You have just ruled on it.

THE COURT: Sustained.

MR. SCHIFFER: I didn't hear His Honor rule.

MR. NEAL: If you would listen, Mr. Schiffer, you would hear what the Court ruled up there.

MR. SCHIFFER: I hear everything that goes on, Mr. Neal, even your thinking process.

BY MR. SCHIFFER:

Q As a matter of fact, witness, isn't it a fact that by prearrangement with the government it was arranged for

you to take the Fifth so you would not disclose to the Grand Jury certain kinds of testimony?

A No, sir.

Q That was not prearranged, was it?

A No, sir.

Q And when you appeared before the grand jury did you in fact tell them everything that you are testifying to in this trial?

MR. NEAL: Objection, Your Honor, that has been gone over.

MR. SCHIFFER: I haven't asked that on behalf of Mr. Parks or anyone else.

THE COURT: He can answer.

A I didn't get an opportunity to, sir.

Q You didn't get an opportunity?

A I took the Fifth Amendment.

Q Didn't there come a time before the Grand Jury when you said, "I know so much more about this case, let me tell it."

A No, sir, I would have been told by Mr. Buffalino to just go by his instructions, I wouldn't have to worry, I wouldn't be--

Q (Interposing) You wouldn't have to worry. And so you knew what you have testified to you say here under oath, you kept that from the Grand Jury by taking the Fifth

Amendment, is that right?

A Answer the question--, ask the question again.

MR. HOOKER: We object to it as being argumentative.

THE COURT: Sustain the objection.

MR. BRANSTETTER: May it please the Court, there's some people at defense counsel table asking for a recess at this time.

THE COURT: All right. Let's take about a ten minute recess, ladies and gentlemen. Observe the usual instructions. Likewise, Mr. Partin, if you will, observe the instructions.

(Thereupon, at 3:05 p. m. a recess was had.)

End 27

27-A fol.

MARSHAL SERTEL: Be quiet in the courtroom now.

THE COURT: You may proceed, Mr. Schiffer.

BY MR. SCHIFFER:

Q Witness, I show you a document, photostatic copy of a document and ask you whether you can identify it. I withdraw the statement. I show you a paper and ask you whether you can identify it?

A Yes, that's the document I signed, it looks like.

Q Pardon me, I didn't get the answer.

A I said that looks like the document I signed, sir.

Q Does it bear your signature?

A Yes, sir.

MR. SCHIFFER: Your Honor, we ask leave to admit this document in evidence.

THE COURT: All right.

MR. HOOKER: No objection, we'd like for the jury to see it.

MR. SCHIFFER: Yes, your Honor.

THE COURT: Yes, they can see it.

(The document referred to above was marked Defendant Parks' Exhibit No. 124 for identification and received in evidence.)

BY MR. SCHIFFER:

Q This document now, Exhibit No. 124, is a document you were referring to before as a report, it's actually an

affidavit, is that right?

A I have never referred to it as a report, sir.

Q Well.

A You did.

Q Well, at any rate, this is a document you were referring to before in your testimony concerning statements you had made which went into the court file, is that right?

A I don't quite understand your question. It seems to be that I told you that the information I had given to Mr. Sheridan would have been compiled or put into a document.

Q Is this the document you meant to refer to?

A If that was the document you was questioning me on, yes, sir, that is what I understood, sir.

Q Fine. May we have it passed to the jury, your Honor?

MR. BRANSTETTER: May it please the Court, has that been introduced into evidence?

MR. SCHIFFER: Yes.

MR. BRANSTETTER: Could I see it?

THE COURT: That is the document the defense were given a copy of the other day, isn't that what we are referring to?

MR. HOOKER: Yes, sir.

MR. SCHIFFER: I am sure there are copies of it.

THE COURT: All right.

MR. SCHIFFER: May we pass it to the jury?

THE COURT: Yes.

MR. BRANSTETTER: Of course, I object to it being considered as against the Defendant Campbell.

THE COURT: All right, Considered only as to any defendant as it may or may not be relevant to that defendant.

MR. HAGGERTY: May I have the benefit of the same objection on behalf of the Defendant Hoffa?

THE COURT: Yes, each defendant may have the benefit of that.

MR. SCHIFFER: Your Honor, may we at this time call upon the government to produce the subpoena which had been served upon Mr. Partin calling for his appearance before the United States Grand Jury in Nashville to which he has already testified?

THE COURT: All right.

MR. NEAL: Your Honor, I don't understand the relevancy. We have been turning over documents day after day to the defendants. I don't know where that subpoena is, I guess we could find it.

MR. SCHIFFER: If the government has no objection.

THE COURT: Well, is it not in the official court file, Mr. Schiffer? Would you not have access to the

official court file?

MR. SILETS: Your Honor--

End Tk 27A
Tk 28 fls.

MR.SCHIFFER: I haven't seen the official court files.

MR. SILETS: Your Honor, may I interpose an objection to Mr. Neal's comments? If the documents are relevant and they are material, the defense has a right to ask for them.

THE COURT: Yes.

MR. SILETS: In addition, in response to the Court's suggestion, I believe these were--, this is a Grand Jury subpoena and it may be suppressed just the same way as the transcript of the Grand Jury testimony is a suppressed document. Now, I have never seen all of the subpoenas issued in the Grand Jury.

THE COURT: If the government has the document, they should produce it.

MR. SCHIFFER: May I proceed, Your Honor?

THE COURT: Yes.

BY MR. SCHIFFER:

Q And this subpoena which was served upon you by the government it stated, did it not, that you were to appear as a witness for the government before the Grand Jury?

A Sir, without looking, I couldn't tell you what it said.

Q Do you recollect whether it said you were appearing as a witness for the defendant?

MR. NEAL: Your Honor, there are no defendants before a Grand Jury. Mr. Schiffer knows that. All the documents say as issued on behalf of application of some government attorney, they do not say you appear for or against anyone. Mr. Schiffer must know this. Every Grand Jury proceeding is in re, John Doe as far as I know.

MR. SCHIFFER: I went to night school. I didn't know these things.

THE COURT: Sustain the objection.

MR. SCHIFFER: Now, may we have a concession from the government that the subpoena which was served upon the witness to appear before the Grand Jury, in this matter, in Nashville,Tennessee, was issued on behalf of the government and that he was asked to attend as a witness for the government?

THE COURT: Well, the Court cannot make stipulations for the parties.

MR. SCHIFFER: I ask the government will they concede to it? We just won't have to get the subpoena, won't have to waste their time.

MR. NEAL: Your Honor, I don't know what the subpoena says. I will stipulate that--, well, I just don't know. I can't stipulate something I don't know.

MR. REDDY: Well, Your Honor, subpoenas for the Grand Jury are issued at the request of the government, that is the way they are issued, and they should be in the official

court file in Nashville.

MR. SCHIFFER: Nashville.

MR. REDDY: Yes.

MR. SCHIFFER: Well, so far as the official court files are concerned, Your Honor--

THE COURT: (Interposing) Let's proceed.

MR. SCHIFFER: Would Your Honor kindly then direct the clerk to secure that portion of the court file? I believe according to Your Honor's jurisdiction then government counsel are defendants--

THE COURT: (Interposing) Yes, if there is any copy of the Grand Jury subpoena let's have it located.

MR. NEAL: Your Honor, if we don't have it we will get it from Nashville and we will stipulate the subpoena, we will stipulate the subpoena can be put in evidence if they want it in evidence.

MR. SCHIFFER: Yes, sir. Fine. Thank you.

THE COURT: All right.

BY MR. SCHIFFER:

Q Now, did you at any time, Mr. Witness, speak with Mr. Seigenthaler of the Nashville Tennessean newspaper published in Nashville, Tennessee?

A Sir, I don't know him. If I saw him and spoke to him it would have been because someone meeting in a room or courtroom or in a cafe or something and I just said, I or

something. I don't know Mr. Seigenthaler.

Q Was Mr. Seigenthaler ever present when you had a conversation with Mr.Sheridan?

A I don't know him, sir. I don't believe he was. I don't know him.

Q Was anybody represented to you by Mr. Sheridan or anybody else employed by the government represented to you to be Mr. Seigenthaler?

A Not that I can recall, sir.

Q Is the name Seigenthaler strange to you completely?

A Seems like it is associated with a newspaper if I'm not mistaken.

Q Well, that was my question, did you know Mr. Seigenthaler?

A I said no, sir.

Q Of the Nashville Tennessean newspaper published in Nashville, Tennessee?

A I said--

Q (Interposing) Pardon me?

A I said I don't know the gentleman.

Q Did you know anybody else connected with that newspaper while you were in conferences with Mr. Sheridan or any other employee of the government?

A Not that I know of. They didn't say they were if they were.

Q Now, there is just one point unclear at the moment at least to me. With reference to your trip to Washington, to which you testified, when you spoke with Mr. William Buffalino, concerning the subpoena for Grand Jury, now did you see Mr. Buffalino after talking with Mr. Sheridan about the subpoena or your appearing before the Grand Jury?

A After I told him I had one, sir?

Q Yes.

A I'm almost positive it would have been, I'm not sure, but I'm almost positive it would have been.

Q And you first spoke to Mr. Sheridan and then you went up to see Mr. Buffalino?

A I'm sure I would have. I just take it for granted I would have. Ordinarily I would have, yes.

Q And you said you had received something from Mr. Buffalino and accord--

A (Interposing) No, sir.

Q In connection with the words to be used?

A No, sir.

Q In taking refuge--

A (Interposing) No, sir, I didn't say that, Mr. Schiffer.

Q You said you got some writing from him for some kind--

A (Interposing) No, sir, I explained it to you how

I got it.

Q From Mr. Buffalino?

A I can tell you, sir, yes.

Q Yes, would you tell us, please?

A He had a typewritten sheet. Let me read it. I thought he was going to give it to me. Then he told me to copy it down in my own handwriting in case it got into the wrong hands they wouldn't know where it came from.? new book 5-4

Q And what did you do with the copy you made, did you give that to Mr. Sheridan?

A I don't think so, no, sir.

Q Did you give it to any other official of the government?

A I don't think so. I just told them that I had it. Was told what to do.

Q Told them that you had it?

A I told him that--

Q (Interposing) You told some public official that you had this in your own handwriting?

A What I told them was Mr.Schiffer, that they had told me to take the Fifth Amendment and written it out for me. That I had to copy it off of what they gave me. I'm sure I told them that.

Q And this official to whom you told this was he in the Grand Jury room when you finally testified?

A Sir, I have told you I didn't discuss anything in the Grand Jury room like that.

Q I know, I say, this official with whom you had spoken about having written down--

A (Interposing) Oh, no.

Q This writing, was he in the Grand Jury room at the time you testified?

A No, sir. No, sir.

Q Now, Mr. Witness, at the time you personally took the protection and invoked the protection of the Fifth Amendment to the Constitution of the United States, before the Grand Jury, you in your own mind knew that you were doing the wrong thing, isn't that a fact?

A I didn't know it was wrong.

Q Didn't know it was wrong?

A No. This has been a trademark of the Teamsters for years.

Q I'm asking you--

MR. SCHIFFER: Now, may we strike that, Your Honor?

THE COURT: Yes, sir, strike that. Strike that.

MR. BROWN: We object to the side remarks.

THE COURT: Disregard that remark.

BY MR. SCHIFFER:

Q Let me ask you--

MR. BRANSTETTER: (Interposing) May it please the Court, Defendant Larry Campbell has been designated here as an official of some local of the Teamsters Union and I again move the Court for a mistrial on the basis that there is no method by cross examination or direct examination, admonition by the Court, admonition by the counsel, for this witness is doing anything rather than seeking to insert remarks into this record that are not fairly to be considered against Defendant Campbell. And so I move for a mistrial.

THE COURT: Overrule the motion.

MR. SCHIFFER: Is that for all defendants, if Your Honor please?

THE COURT: Yes.

End 28

28A fol.

BY MR. SCHIFFER:

Q In your own experience do you know about the defendant Mr. Hoffa, you stated here and now under oath that he ever took the protection of the Fifth Amendment but questioned anywhere by a Senate committee, House committee, or in any court or Grand Jury?

A I don't know whether he has or not, sir.

Q And it is not a trademark, is it?

A I mean, we have been told it was the right under the Constitution.

THE COURT: Mr. Schiffer, you just asked that that be stricken from the record and now you want to go back and ask the same thing. Sustain the objection.

MR. SCHIFFER: I thought your Honor did not strike it.

THE COURT: I struck it from the record.

MR. SCHIFFER: I beg your pardon, your Honor.

MR. SILETS: Your Honor, I renew the motion based upon Mr. Schiffer's comments.

THE COURT: Well, your motion is overruled.

BY MR. SCHIFFER:

Q Could you tell us what you did with this writing that you said you made a copy of, what Mr. Buffalino had told you to write down as to the method of invoking the protection of the Fifth Amendment to the Constitution of the United States?

MR. NEAL: I object. It has been asked and answered.

THE COURT: Overruled.

THE WITNESS: I believe I read it or used that to answer the questions with in the Grand Jury room, sir.

BY MR. SCHIFFER:

Q I didn't ask you that question. Will you please listen to the question? I asked you, what did you do with that paper which you had written in your own handwriting, from what you say Mr. Buffalino had exhibited to you concerning the words used when taking and invoking the protection of the Fifth Amendment?

THE COURT: Do you mean what the ultimate disposition of it was?

MR. SCHIFFER: Yes, sir.

THE WITNESS: I wouldn't know, sir. It wasn't any use of keeping it after that.

BY MR. SCHIFFER:

Q Then, you disposed of it?

A I imagine I did. I wouldn't just keep something that way.

Q Can you say under oath that you did not give it to any other individual?

A I couldn't say under oath but I don't think I did.

Q Could you say under oath whether or not you did in fact give it to Mr. Sheridan?

A I said that just prior to this, sir, that I couldn't swear that I didn't give it to anyone but I wouldn't think I would. It wouldn't be anything to give to anyone.

Q Well, my question is, can you state upon your oath whether or not you did give it to Mr. Sheridan?

MR. NEAL: Your Honor, he has asked and asked and asked that question.

THE COURT: Sustain the objection.

BY MR. SCHIFFER:

Q Prior to the time you appeared before the Grand Jury in response to the subpoena which we are speaking about haven't you indicated and had a conversation with government lawyers and/or Mr. Sheridan, that you were going to take and plead the Fifth Amendment in the Grand Jury?

MR. NEAL: Objection as being repetitious, your Honor.

THE COURT: Sustained.

End 28a
29 fls

MR. SCHIFFER: If your Honor will bear with me, I think I am just about through. Now, your Honor, I will have--pardon me--one question.

BY MR. SCHIFFER:

Q Did you tell Mr. Sheridan that Mr. Buffalino had told you to fake the taking of the Fifth Amendment protection?

MR. NEAL: Objection, your Honor, it has been asked and answered.

MR. SCHIFFER: That hasn't been asked and hasn't been answered.

THE COURT: Allow him to answer.

A Would you repeat it, sir?

Q Did you tell Mr. Sheridan or any other official of the government that Mr. Buffalino had told you to fake the taking of the Fifth Amendment protection?

A I don't think I would have, sir.

MR. SCHIFFER: Your Honor, I have something to address the Court on and I believe I should make it in the absence of the jury. May we have the jury excused for a few moments at this time?

THE COURT: All right. Ladies and gentlemen, step out.

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom.)

MR. SCHIFFER: May we have the witness excused, too, please?

THE COURT: All right. You may step out, Mr. Partin.

(Thereupon, the witness was temporarily excluded from the courtroom.)

MR. SCHIFFER: Your Honor, on behalf of the Defendant Parks at this time I respectfully move the Court that in view of the fact that a number of witnesses, namely but not limited to government witnesses in this case Paschal, Fulton, Walker, Partin and others have openly and admittedly committed perjury in this trial.

Now, we wish for the force of due processes guaranteed to every defendant, and due process only being invoked by the defendants by an appeal directly to the general jurisdiction of this Court to prevent perjury outrightly committed before this Court, to permit this Court from carrying out its constitutional powers, we ask that a hearing be held by this Court to give us this opportunity, at which time we will put on witnesses to testify as to the perjury of these particular people and in the course of this examination for the trial it will be determined that the perjury which was committed by these people was induced and suborned by someone other than these witnesses and that the Court appoint a special prosecutor, preferably from

right here at the Chattanooga Bar, to prosecute and represent the truth here because it is quite obvious now that the Department of Justice, and certain highly placed individuals in it, are interested parties to that extent and would be interested in the protection of their own witnesses.

It is perfectly obvious now that the government will not prosecute any of its own witnesses in this case, despite outright perjury, and, therefore, we feel we must invoke the general powers of this Court to appoint a special counse to assist the Court in arriving at the truth and that the Department of Justice specifically be barred from presenting any of the evidence against any of those who have committed the outright perjury and in several instances in connection with several of the witnesses they admitted having falsely sworn on prior occasions to the very matters which they testified to before this Court.

We believe, your Honor, that short of such action by this Court the Defendant Parks and those other defendants who care to join, the rights of Parks have been so far affected that in no event, and I say advisedly in no event, coupled with the surveillance carried on by the government in this case, can Mr. Parks, my client, ever hope by the farthest stretch of the imagination receive a fair trial, despite the efforts of your Honor to conduct such a trial.

29 - 4

THE COURT: All right.

MR. BROWN: All the defendants would like to join in the motion.

THE COURT: All the defendants may join in the motion. I believe the motion should be overruled. All right. Is there any further cross examination of this witness by any party?

End Tk 29
29A fls.

MR. BRANSTETTER: Yes, may it please the Court.

THE COURT: All right.

MR. NEAL: May we ask your Honor, we have only this one problem now, I am not blaming Mr. Haggerty, I am sure that he gave me what he thought was the best information, but I was told Friday that the cross examination would end Monday. Now, we do have a problem of other witnesses. If counsel could help us with the time, and I guess Mr. Branstetter is the last man who will complete, we can either release some of our witnesses, let them leave the room out here and go back to the hotel and come tomorrow morning or come at 10:00 o'clock.

THE COURT: I assume that we won't get to any other witness this evening.

MR. BRANSTETTER: That would be my judgment, yes.

MR. NEAL: Can you complete this evening?

MR. BRANSTETTER: I'd rather doubt it. I think probably the government has turned over to counsel for the defendants material since the original cross examination, for example, by Mr. Berke, there may be additional examination other than my own.

MR. NEAL: Your Honor, we are going to object to any going back through this cross examination with respect to anything except telephone calls.

THE COURT: Well, we will just have to take up

matters as they come, gentlemen, we have enough to take up that way without anticipating.

Is it the understanding of the parties that we will not attempt to have further witnesses this evening if we should complete the examination of this witness?

MR. BRANSTETTER: I think so.

THE COURT: All right. Let's have the witness and the jury return.

(Thereupon, the jury of twelve and four alternates and the witness returned into open court and the following further proceedings were had, to-wit:)

THE COURT: Mr. Partin, you are having the pleasure of meeting a number of attorneys here. The next attorney you are to meet is Mr. Cecil Branstetter. Mr. Branstetter represents Mr. Larry Campbell.

THE WITNESS: Yes, sir.

THE COURT: One of the defendants.

THE WITNESS: Yes, sir.

CROSS EXAMINATION

BY MR. BRANSTETTER:

Q Mr. Partin, I believe you testified previously that you met with Mr. Sheridan in Washington, D. C., on a particular occasion, is that correct?

A Yes, sir, I think so.

Q Would you designate what date or what month that

was in and what year?

A It would have been in '63, sir.

Q In 1963?

A I believe so.

Q Would you think it was before you appeared before the Grand Jury or after?

A I believe afterwards, sir, I think so.

Q I am sorry, I didn't hear you.

A I believe it was after, sir.

Q After. I believe also that you stated that you had noticed Mr. Sheridan taking some notes on that particular occasion when you met in Washington?

A I don't believe I said that, sir.

Q Where did you meet in Washington?

A He described a building, I said it was possible I was in the building, the gentleman was questioning me, it was around somewhere in the government building, I am sure.

Q Was it at the Justice Department, do you know?

A Sir, I don't know the Justice Department Building, it's possible, I would guess it was, sir.

Q Was is your telephone number in Baton Rouge, your office number?

A Walnut 4-1757.

Q Was that the same number that you had in 1962?

A Sir, I have another one if you would like.

Q Could I ask did you have telephone number 924-1757 in 1962?

A It goes as Walnut, sir, but I am sure we did.

Q That would be the right number?

A I believe so.

Q Now, do you know where Mr. Sheridan lives when he is out of Nashville, when he is not in Nashville where is his residence?

A Where he lives when he's not in Nashville?

Q Yes. Do you know where he lives?

A I have called him in Washington.

End 29a
30 fls

Q Now, the first time that you received Mr. Sheridan's telephone number was when Mr. Grimsley gave it to you about the 18th of October, 1962, was that correct?

A I didn't say that date, sir. I said it was approximately that date.

Q Yes, sir.

A The first time I had his number that I can recall.

Q And the first time that you ever called Mr. Sheridan was when you arrived in Nashville on the 22nd of October, 1962?

A As far as I can remember, sir. It could have been another time. I don't know.

Q Now, do you know whether or not in placing your calls to Mr. Sheridan in Washington at his residence, that his residence was in Bethesda, Maryland?

A It is possible, sir. I don't know for sure. You place it through Washington.

Q And did you ever have his home telephone number?

A Yes, sir.

Q In 1962?

A Yes, sir.

Q And had you called him at home in Bethesda, Maryland, through Washington in 1962?

A I don't believe so, sir. It is possible, but

I don't believe so.

Q I would like to hand you and ask if you can identify your telephone number, office telephone number on that particular piece of paper listed as a list of calls?

A It seems to be the number, sir.

Q Your office number in Baton Rouge?

A I mean the numbers that was called. That seems to be the number that was called.

Q Those are the numbers in Bethesda, Maryland, that you called for Mr. Sheridan?

A It seems to be, sir. The numbers--

Q (Interposing) Excuse me, also immediately below there and see if it is the next two numbers are not the numbers of the Justice Department in Washington, D. C.?

A It seems to be. Possibly he wasn't there. Maybe he gave another number. It looks familiar.

Q Thank you.

MR. BRANSTETTER: Could we have that marked for identification at this point?

THE COURT: No. 125?

THE CLERK: Yes, sir, No. 125, your Honor.

(The list of telephone calls referred to above was marked for identification as Exhibit No. 125.)

BY MR. BRANSTETTER:

Q Now, Mr. Partin, would you take that and look at

it again, please?

A Yes, sir.

Q Now, was this billed to your union office?

A It seems it was but he told me to call collect all the time so why they are on here I don't know.

Q Did you know that it was being placed on the bill of your local union?

A No, sir, I didn't because he said call collect at all times.

Q Apparently on that occasion it was, though, through some process of billing system, charged to your local union?

A Well, evidently it was.

Q And was paid?

A Evidently it was, yes, sir, which is--

Q (Interposing) Now, does it designate on there what the date of that call was? The four? Would you state as to the number receiving the call the number to whom the call was made?

A I can't swear to who the call was made. The 8th and 15th the calls are made, though.

Q And the numbers, would you mind reading those, please?

A OL 6-4524.

And REpublic 7-8200.

Q And one is designated as Bethesda, Maryland, and the other one is designated in what manner?

A Washington.

Q Excuse me.

A Washington.

MR. NEAL: May it please the Court, it looks like 1963.

MR. BRANSTETTER: Let counsel look at it and this witness can testify, I assume. You can ask him.

THE COURT: Proceed.

BY MR. BRANSTETTER:

Q Does it designate when the call was made other than the August 15th or what is it, August what?

A It says August 15th. I don't see the year on it, though.

Q Do you remember making those calls?

A It was some that I made along those times, it is possible they were made exactly like they say here. That was close to the time of the hearings in Nashville. It would probably have been in regard to another matter though, I would imagine.

Q You say it would have been in regard to another matter and not this particular matter in Nashville?

A It is possible.

Q Now, what telephone number did Mr. Grimsley

give you in Atlanta or wherever you were supposed to reach Mr. Sheridan in Nashville?

A He gave me his home phone and his office phone.

Q Did he also give you this particular phone number in Bethesda, Maryland, do you recall?

A No, sir, I don't think so. I gave this--Mr. Sheridan gave me that, I think.

Q You think Mr. Sheridan gave you that later on?

A I believe so. I am not positive of it. I don't know how the numbers got in there if the calls, if I made them, I think I made them.

MR. NEAL: Counsel can tell us, your Honor. He just indicated to me it was 1963 bill. I think counsel should at least tell him what he told me.

MR. BRANSTETTER: May it please the Court, he has a perfect right to go into this matter at any time that it comes his turn to bat and he can look at this. I'm checking it right now myself to satisfy and I don't think that the jury should be told this one time when it is another unless that is the case. I think that it was 1963, but I don't know that.

THE COURT: Well, proceed.

THE WITNESS: I told you on here today that I didn't know what year it was.

MR. BRANSTETTER: Sure, you did, Mr. Witness.

THE COURT: All right, let's proceed.

End Tk 30
Tk 30A fls.

BY MR. BRANSTETTER:

Q And you don't know what year it was?

A I can't tell by looking at this.

Q It could have been 1962 or 1963 either one, you were making calls at that time, weren't you?

A At what time?

Q August 15, if that is the date, 1962 and 1963?

A Evidently I was. Evidently.

Q Thank you.

A From the looks of the bill.

Q Now, Mr. Partin, you are still--, are you the administrative head of the particular Teamsters Local, is it No. 5?

A I believe it is.

Q And what is your official title?

A Business Manager and Secretary-Treasurer.

Q Now, that is the administrative head, not just the bookkeeping end of the local?

A Sir, I'm voluntarily withdrawed from the book-keeping.

Q Sir, I'm not asking you that.

A O. K.

Q I'm just trying to get at your title, what you do.

A Would be policing contracts, negotiating contracts,

and so forth.

Q How long have you been in this particular office?

A It has been ten or twelve years. I'm not positive unless I look on the records I wouldn't know.

Q And you are still holding that particular office?

A Yes, I am.

Q And the office is the administrative head of that particular local?

A Subject to the executive board. Of course, you work for the executive board. They are the controlling body of the Local Union.

Q Now, where have you lived for the past five years?

A Motels. My aunt's house. My mother's house.

Q Does your mother live in Baton Rouge?

A No, sir. Natchez, Mississippi.

Q Natchez, Mississippi?

A Yes, sir.

Q Where does your wife presently live?

A Prescott Road.

Q In Baton Rouge?

A Oh, yes. Yes.

Q And did you state that you had not seen her in three years or that you had not lived with her in three years?

A I said I haven't lived with her for approximately three years. I see her every week when I am there when I pick

the children up.

MR. SILETS: I can't hear him, Your Honor.

THE WITNESS: I say, I see her every week when I pick the children up.

BY MR. BRANSTETTER:

Q Mr. Partin, did you tell the truth before the Grand Jury when you told them that you were exercising your rights against self-incrimination?

MR. NEAL: Your Honor, we object to this.

THE COURT: Sustain the objection.

MR. BRANSTETTER: I don't recall the witness having been asked this question. If he did not tell the truth I think the jury is entitled to know it.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Mr. Partin, I believe that you--, well, would you state again when you left Baton Rouge to head toward Chattanooga here?

MR. NEAL: Your Honor, we except to that. Repetitious. That was gone into as much as a week ago on cross examination, last Wednesday afternoon, by Mr. Berke. A week ago tomorrow.

THE COURT: Yes, that has been covered. But I will allow him to answer again if it is material.

THE WITNESS: Two or three days before I got up

here, sir.

BY MR. BRANSTETTER:

Q Did you come through Atlanta or Birmingham?

A Birmingham.

Q And someone came with you from Birmingham on up here?

A Yes, sir.

Q Did you tell us who that was?

A No, sir, because--

Q (Interposing) Would you tell us?

A If I'm requested to do so. Might have been a potential witness.

F 30A
31 fol.

Q Well, that's all right, I am interested --

MR. NEAL: (Interposing) Well, we object, your Honor, it's immaterial.

MR. BRANSTETTER: It is not.

MR. NEAL: We withdraw the objection.

THE COURT: All right. Go ahead.

BY MR. BRANSTETTER:

Q Go ahead.

A Mr. Tucker and a Mr. Grimsley.

Q Mr. Tucker and Mr. Grimsley?

A Yes, sir.

Q Now, where did you pick up Mr. Grimsley or where did he pick you up or did you get together?

A I don't know the name of the street, sir, it was on a parking lot on the corner from a hotel.

Q I hand you here a picture for identification and ask you to look at it and see if you can identify this picture?

A It looks -- yes, sir, it's a bad picture, but --

Q (Interposing) A lot of pictures are bad from time to time, who is this?

MR. HOOKER: May we see it, Mr. Sertel?

BY MR. BRANSTETTER:

Q Excuse me, don't answer.

A That's Mr. Tucker.

Q Mr. Tucker?

A Yes, sir.

Q That's the fellow, one of the men that you rode up with, is that right?

A Yes, sir.

MR. BRANSTETTER: Would you mark this for identification?

THE COURT: Exhibit No. 126?

MR. DALE: Yes, your Honor.

(The photograph referred to above was marked Defendant Campbell Exhibit No. 126 for identification only.)

BY MR. BRANSTETTER:

Q Now, who is Mr. Tucker?

A He is a trustee for Teamsters Local No. 5.

Q And he is from Baton Rouge also?

A Yes, sir. I think it's an outlying area from Baton Rouge, it's a suburb of Baton Rouge.

Q Was Mr. Tucker with you on the occasion that you talked to Mr. Sheridan in Nashville?

A No, sir.

Q I am sorry.

A No, sir.

Q He was never with you there?

A No, sir.

Q Was Mr. Tucker with you when you went to Washington?

A No, sir.

Q Was the first trip that you made with Mr. Tucker when you came to Chattanooga?

A No, sir. Evidently from the records you showed me it was the one made back prior to that, just going from your records that you showed me.

Q I am sorry, I don't know what you have reference to.

A I say, going from the plane ticket records and the hotel records evidently he came with me once before.

Q Came with you to Nashville once before?

A Evidently, sir.

Q Yes. Well, do you recall it?

A I can't clearly recall it, no, sir, but it's possible from what you showed me.

Q I believe you did look at a plane ticket previously and that had been issued to a Mr. Tucker and you stated that he may have gone to Nashville with you from Baton Rouge.

A No, sir, from New Orleans.

Q From New Orleans. Is he from the New Orleans local or the --

A (Interposing) No, sir, Baton Rouge local.

Q Baton Rouge local?

A Uh-hmm.

Q But this was just the method of air transportation

from Baton Rouge to Nashville, is that correct?

A That is correct.

Q The Mr. Grimsley that you say -- Birmingham or Atlanta where you picked up Mr. Grimsley?

A I said Birmingham, sir.

Q Did you have a pre-arrangement to meet Mr. Grimsley in Birmingham?

A Yes, sir.

Q And did you come up in his car or your car or by some other method of transportation?

A Came up in a car, my car.

Q Your car?

A Uh-hmm.

Q A local union's car or your private car?

A My car.

Q Is it the one that you drive for the local union?

A I said my private car now, sir.

Q What make car was it?

MR. NEAL: Your Honor, we object to this as being immaterial.

MR. BRANSTETTER: I am merely trying to lay the foundation for something else.

THE COURT: Sustained

BY MR. BRANSTETTER:

Q Now, Mr. Tucker, has he been staying with you while you have been here in Chattanooga?

MR. NEAL: Just a minute, Mr. Partin. We object to this as being irrelevant.

MR. BRANSTETTER: May it please the Court, I seek to determine this, that who this person has--this witness has associated with and been with and what the relationship has been with the individuals that he may have associated with while he has been here in Chattanooga I think is very basic to fair cross examination.

THE COURT: Allow him to answer.

A He hasn't been in the room with me as such, I don't think, but one occasion.

Q But on one occasion. Does he go to and from the court--hotel, I mean the courtroom with you?

A I think he went once or twice.

Q Now, has Mr. Grimsley been with you since you have been here?

A I have seen him, sir.

Q Have you talked with him?

A Just briefly.

Q Where?

A In, I think in a restaurant.

Q When?

A On several occasions, I think, sir.

Q Well, let's begin, today is Tuesday. When did you--

A (Interposing) Doesn't leave--I said I talked to him on several occasions.

Q Right, true. Now, I would like to list down some of the times which you have talked with Mr. Grimsley.

A Sir, they was so minor when he said, "How are you? Good morning."

Q Um-hmm.

A "How are you doing today? How are you getting along?" Or, if I saw him the man he's eating his breakfast and I spoke to him, I can't remember exactly what time.

Q But did you meet with him in a room or a building here on any occasion since you came here?

A No, sir, not that I can recall. He has came up, I think, together with me or maybe behind me, but I don't remember meeting with him any.

Q Have you talked to him about the testimony you are giving in this case since you came here?

A Not about the testimony, no, sir.

Q Have you talked to him at all about what you have testified about?

A No, sir.

Q When was the last time you saw Mr. Grimsley?

A Yesterday, I believe.

Q And where did you see him?

A In a restaurant, I am sure.

Q In a restaurant. And that's the only place you saw him on yesterday?

A Yesterday?

Q Yes.

A I believe I saw him coming in the courthouse, in and out of the courthouse.

Q Did you talk to him on that occasion?

A No, sir, I don't think so.

Q You would know if you did, wouldn't you?

A Well, it was so minor, I don't think so, I don't believe I even got close enough to speak to him.

Q Is this the same Mr. Grimsley that was making the payments for your expenses?

A He is the one that they said did, I didn't see him do it.

Q Who did you have your agreement with insofar as the payment of expenses are concerned?

A I believe Mr. Grimsley was the one that was going to handle it, sir.

Q Well, now, where and when did you first talk to Mr. Grimsley about handling the expenses?

A I can't recall the exact time, I think Mr.

Sheridan had asked me prior to that did I have any outstanding debts that I had to take care of is the reason I couldn't be gone or something and I am not positive of exactly when that was, sir.

Q Where were you when Mr. Sheridan asked you about the outstanding debts?

A I am not sure whether it was in Columbia or prior to Columbia.

Q Prior to Columbia?

A It could have been on the telephone, I am not positive of when it was.

Q You talked to Mr. Grimsley, though, the first time in Baton Rouge, is that correct?

A As far as I can recall, it may have been New Orleans, I think it was Baton Rouge, I don't think it was New Orleans.

Q You talked to Mr. Grimsley in Atlanta about your coming to Nashville?

A I am sure I did, I am not--I can't swear that but I am sure I did.

Q Well, you talked to him because he gave you Mr. Sheridan's telephone number to call when you arrived in Nashville, isn't that true?

A I said I thought that was where I got it, sir, I wasn't positive of that.

Q Now, does any of that refresh your recollection as to the time that expenses were discussed with Mr. Grimsley?

A I would imagine it would be a few days or a week or two weeks prior to the time she got the first check or maybe three weeks.

Q Well, where would that have been? Could I see those exhibits?

THE COURT: Just file with the Clerk the exhibits that are not being used, Mr. Officer.

MR. BRANSTETTER: If you will put those back. Let him look at them.

BY MR. BRANSTETTER:

Q Now, when you met, was it the Holiday Inn in Baton Rouge that you met with Mr. Grimsley on one occasion and a Mr. Smith?

A I don't believe I said Mr. Grimsley was there, sir, I don't believe so.

Q Who was there then?

A I said I thought it was--

MR. NEAL: (Interposing) We object to it as being repetitious.

THE COURT: Sustained.

MR. BRANSTETTER: I think the record shows that insofar as Campbell is concerned his attorney has not asked that question previously.

THE COURT: Yes.

BY MR. BRANSTETTER:

Q When then was--when was the first time that you met again with Mr. Grimsley?

MR. NEAL: Objection, your Honor, as being repetitious.

THE COURT: Sustained.

BY MR. BRANSTETTER:

Q Do you recall whether or not you discussed the payment for expenses or any bills that you had to make that were made with Mr. Grimsley, did you discuss that with him at all?

A Repeat that, sir.

Q Did you discuss with Mr. Grimsley at all the payment of your expenses?

A Now, which expenses are you speaking of, sir?

Q Any expenses.

A No, I am sure that I mentioned them to him, yes.

Q Well, now, where were you when you talked to him about them?

A Sir, it could have been on the telephone, it could have been any place.

MR. SILETS: Can't hear him, if your Honor please.

THE COURT: Speak up.

BY MR. BRANSTETTER:

Q Now, you were supposed to pay your wife $300 a month as support for the children, did you say?

A Yes, sir.

Q At one time it was $450 a month, wasn't it?

A No, sir, I was voluntarily paying that, the judge cut it to 300.

Q The judge did?

A Yes, sir.

Q Is there no court order requiring you to pay 450 a month?

A No.

Q There was never?

A Not that I know of, sir, that was a voluntary arrangement I was making.

Q I will show you one in a minute.

A Well, I'd like to see it.

Q But you don't know now when you first discussed the payment of your expenses with Mr. Grimsley?

A No, sir, I said it could have been on the telephone, it could have been in private, it was several different ways it could have been.

Q All right. When was the first time you met with Mr. Grimsley?

MR. NEAL: Your Honor, we object as being

repetitious.

MR. BRANSTETTER: May it please the Court, it's the only way I can get to this, it's rather important.

MR. NEAL: The witness testified he discussed payment of his expenses.

MR. BRANSTETTER: I object to counsel making the statement about what the witness has testified to.

THE COURT: Sustain the objection.

MR. BRANSTETTER: I am going to insist on this throughout, may it please the Court.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Is it your statement now that you do not know when you first discussed the payment of expenses with Mr. Grimsley?

A No, sir, I said it would probably have been a few days or week or weeks ahead of that, I don't know.

End Tk 31A
32 fls.

Q Well, now, I will hand you here a check dated August 6th, 1963, for $300 made payable to A. Frank Grimsley, Jr., and ask you if you will hold that just a moment, and I will also hand you at the same time a check dated August 13, 1963, drawn on the National Bank of Atlanta, Atlanta, Georgia, payable to Mrs. E. G. Partin, for $300. Actually with reference, has reference on the lower left corner, to Chase Manhattan Bank and I will ask you to look at this, I believe you stated that that is your wife's signature and ask that it be passed to the jury.

A If it has what, sir?

Q If it has your wife's signature on the back of it and I would like the two checks or the check made payable to Mr. Grimsley and then the one payable to Mrs. Partin be passed to the jury.

A I said this looks like her writing.

Q All right. Thank you.

A But I can't, sir, you asked me about two of them. I can't speak for Mr. Grimsley.

Q No, I'm sure of that.

A Okay.

MR. BRANSTETTER: Could we have those passed to the jury, please?

THE COURT: All right.

BY MR. BRANSTETTER:

Q Now, did Mr. Grimsley tell you that he was going

Q Now, did Mr. Grimsley tell you that he was going to have the money or the checks issued to him and then he would issue one to your wife so that it could be hidden and not determined who was paying what?

A Sir, I wasn't interested in how they paid it. That was up to them.

Q All right. I will hand you another check dated July 9, 1963, drawn on the Treasurer of the United States of America, made payable to A. Frank Grimsley, and another check on the First National Bank of Atlanta, dated July 15th for $300, made payable to Mrs. E. G. Partin, and ask you if you will check the one with reference to Mrs. E. G. Partin, and see if that is her signature, see if her address is correctly noted thereon and ask that those two be passed to the jury.

A The signature looks the same, but I don't know whether it is a nine or four. It looks like a nine. It would be mistaken for a four. 7425 or 7925.

Q Where did your wife live?

A She lives here but you asked me about what was on here.

Q Sorry. She lives where?

A 7925 Prescott Road.

Q Does that appear on the back of the check?

A Sir, I explained to you this is kindly blotted out. It could either be a four or a nine.

Q Appears to be that address?

A Yes, it does.

Q Thank you. Now, did Mr. Grimsley tell you on that check that he was going to have a check issued to him from which he could cash or otherwise obtain the money and then give the money to Mrs. Partin in order to hide it?

A I believe --

MR. NEAL: (Interposing) Your Honor, I object to that. We brought this out on direct. Your Honor, this witness has testified to this matter as to how his expenses incurred on behalf of the government were paid.

MR. BRANSTETTER: May it please the Court, I object to counsel continually stating what has been testified to here.

MR. NEAL: I object to counsel saying hid and hiding.

MR. BRANSTETTER: I don't know any other way for doing it this way.

MR. NEAL: You were told another reason for doing it that way if you want me to tell the Court and jury.

THE COURT: Proceed.

MR. BRANSTETTER: May it please the Court, I respectfully ask the Court to instruct Mr. Neal to refrain from making such remarks and instruct the jury to disregard it.

32-4

THE COURT: Well, the jury will disregard the arguments of counsel.

End 32
32 a fls

BY MR. BRANSTETTER:

Q Now, could we pass those to the jury, please? I have here also another check in the amount of $300.00 drawn on the Treasury of the United States of America, Division of Disbursements, made payable to A. Frank Grimsley, in the amount of $300.00 and then two checks made payable to Mrs. E. G. Partin, one in the amount of $150.00, drawn on the same bank as previously. Dated November 14th. And the other one dated November 14th. For $150.00. And I will ask you to look at those, identify them, and then I will ask you a question and ask that they be passed to the jury.

A Sir, you are asking me to identify correct address and signature? I can't identify the checks?

Q Well, you have previously said it looked like Mrs. Partin's signature. That is what I'm asking you, the handwriting, is that what you are speaking of?

A Right.

Q Right.

A Yes, sir, that looks the same. It looks like it, yes, sir.

Q Now, was there any discussion with Mr. Grimsley on the payment of these two separate $150.00 checks as being a part of or the result of monies received from the $300.00 check?

A I believe sir, on the $150.00 check if I'm not

BY MR. BRANSTETTER:

Q Now, could we pass those to the jury, please? I have here also another check in the amount of $300.00 drawn on the Treasury of the United States of America, Division of Disbursements, made payable to A. Frank Grimsley, in the amount of $300.00 and then two checks made payable to Mrs. E. G. Partin, one in the amount of $150.00, drawn on the same bank as previously. Dated November 14th. And the other one dated November 14th. For $150.00. And I will ask you to look at those, identify them, and then I will ask you a question and ask that they be passed to the jury.

A Sir, you are asking me to identify correct address and signature? I can't identify the checks?

Q Well, you have previously said it looked like Mrs. Partin's signature. That is what I'm asking you, the handwriting, is that what you are speaking of?

A Right.

Q Right.

A Yes, sir, that looks the same. It looks like it, yes, sir.

Q Now, was there any discussion with Mr. Grimsley on the payment of these two separate $150.00 checks as being a part of or the result of monies received from the $300.00 check?

A I believe sir, on the $150.00 check if I'm not

mistaken we had a conversation to the effect that I thought I was caught up or this is the time I was fixing to start paying it again myself or some discussinn was mentioned in regard to $150.00 checks.

Q And that would explain the reason for the two checks in this case?

A Yes, sir.

Q Although Mr. Grimsley had received $300.00 for reimbursement to you, you told him you thought you were about caught up at that particular point?

A As I recall there was some conversation in regard to that.

Q O. K. If you will, just hold those a moment and I will hand you some more because we can save a little time here maybe.

I will hand you a check or a draft or Treasury disbursement for $300.00 dated September 4, 1963, made payable to A. Frank Grimsley, and two separate checks drawn in the same manner and the same bank in the amount of $150.00 each, dated, well, the original one from the Treasury Department is dated September 4th, the one for $150.00 is dated September 12th, in the amount of $150.00.

And I will ask you if you will, to look at those and make the same determination.

A I believe they are, sir.

Q Now, I believe you--, is it possible that on this particular occasion, too, that you and Mr. Grimsley had a discussion about whether or not you were about caught up and you were trying to work it out?

A That was probably the result of the other conversation I had.

Q And hence, we have two checks to make up the total of the $300.00.

A I'm just guessing, sir. I didn't pay them. I wouldn't know.

Q Now, you--, could you look at that and get the date, sorry, I didn't get the date.

A September 12, and September 27th on these two.

Q Of what year, please?

A 1963.

Q Now, did you state a moment ago that you visited your children once a week or occasionally?

A Often as I can, sir.

Q Sure.

A Try to pick them up every Friday on every other week and on Saturday every other week.

Q And you've been doing this over some considerable period of time?

A Quite awhile, sir.

Q Were you doing it back in September and October

of 1963?

A Well, I'm sure with a few occasions I would miss that I would, yes.

Q Right. And on those occasions, did you see Mrs. Partin from time to time?

A When?

Q When you would pick up the children?

A Oh, yes, I would see her usually when I brought them back because she would be working probably when I picked them up.

Q And when you would bring them back and see Mrs. Partin did you talk to her about how the children were getting along or how she was getting along or inquire as to their general circumstances?

A Well, I guess it would be as anyone under the circumstances would be.

Q One would naturally inquire of their children, wouldn't they?

A I would have them with me. I wouldn't have to inquire, I would know at the time.

Q And you would determine, too, whether or not she was receiving monies sufficient to support the children on these occasions?

A Well, I put it this way, she hadn't complained and that would be unusual. Usually if I got behind a week I would

have to pay ahead a week. She didn't complain. She was pretty well satisfied.

Q I bet--, I think I'd better not ask that. You don't think that women just complain, is it because they don't have enough money, is that the only time she complained now?

A No, sir. No, sir. I would be living with her now if that was the case.

Q Did you discuss with her on these occasions when you would go pick up the children, whether or not she had received the money that the government of the United States had told you would be paid?

A I think I hinted around to her because I wanted to be sure she didn't have me up in court for not supporting her and I would try to tiptoe around, to put it that way, because I didn't want her to really know.

Q Right. She complained a goodly number of times in court about payments of money, hadn't she?

A I don't know exactly how many times she complained. I have never had--, the children, they have all got bank accounts I gave them so I don't know why they would be complaining too much. She lives in a pretty good house and gets pretty good money to live on.

Q She was getting this money regular from the government, do you know whether it was stopped or has it

stopped at this time?

MR. NEAL: Your Honor, I object to that. We turned over all--

MR. BRANSTETTER: (Interposing) May it please the Court--

MR. NEAL: (Interposing) Made expenses of this man.

THE COURT: Proceed.

End 32A

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MR. BRANSTETTER: Did counsel say that they turned over all the payments to this man?

MR. NEAL: I said pay for his expenses incurred by this man, payments made at his request in a certain manner.

THE COURT: Proceed.

MR. NEAL: That is, expenses incurred at our request.

THE COURT: Well.

MR. BRANSTETTER: May I ask the Court if counsel is through testifying?

THE COURT: Let's proceed.

MR. BRANSTETTER: Could we pass those others to the jury, please? Then I would like to -- if he will pass back up these, which I believe are copies of the original copies, checks. I believe these are copies of what the green rather good-looking checks that are passed around there, I believe these are just copies of them so we don't need to pass those around.

BY MR. BRANSTETTER:

Q Mr. Partin, during October of 1962 were you at that time visiting with your children and seeing your wife from time to time?

A I would guess so, sir, as I said, I have always got to see them when I could.

Q Do you know at that time whether or not she was

receiving any monies other than the monies you were giving her?

A Not unless someone, you or someone else was paying her, I don't know.

Q Well, I think you can rest assured I wasn't, Mr. Partin, some of my tax money may have.

MR. NEAL: Now, your Honor, I object to that. I resent it. We have given all the checks here and I resent his remarks like that and I think that your Honor has certainly instructed me and I want to abide by it but counsel has --

THE COURT: (Interposing) Both counsel refrain from making remarks about the testimony.

MR. SCHIFFER: Pardon me, your Honor, on behalf of the Defendant Parks we move that the remarks made by Mr. Neal be stricken on the ground that --

THE COURT: (Interposing) I will ask that the remarks of both counsel in that respect be stricken.

MR. BRANSTETTER: Could we ask that the remark of the witness that unless I was paying her she wasn't getting any be stricken also?

THE COURT: Yes, sir, I will strike that, too.

MR. BRANSTETTER: Thank you.

MR. HOOKER: Start over.

THE COURT: Now, we have a clean slate.

BY MR. BRANSTETTER:

Q Now, in line with these checks, Mr. Partin, did the government furnish you with a W-2 form?

A Not that I know of, sir, I haven't got any W-2 forms of any kind so far from the union or --

Q (Interposing) Did the government furnish you with a 1099 form?

A Not that I know of, sir, I haven't gotten any, as I said, of any kind from any one employer.

Q Excuse me, go ahead.

A I said I haven't received any of any description from anyone, including the union, as yet.

Q Do you have any employees in the union under you that are paid salaries?

A Yes, sir.

Q And you furnish them with their W-2 forms?

A No, sir.

MR. HOOKER: We object to that, these were expenses, wouldn't have been taxes.

THE COURT: Sustained.

MR. BRANSTETTER: I think that's a legal conclusion, may it please the Court.

MR. NEAL: They don't furnish me with a W-2 when they pay my expenses.

THE COURT: Just a moment. Let's proceed. Sustain the objection.

BY MR. BRANSTETTER:

Q Now, Mr. Partin, you have other expenses, do you, at the present time, money due you from the government?

A Do what now, sir?

Q Do you have other monies due you from the government at the present time?

A I think so.

Q And have you discussed that with Mr. Grimsley also?

A I think I told him I had some more coming, yes, sir.

Q When did you talk to him about that?

A It's possible that whenever that was stopped it was discussed, it could have been discussed before it also.

Q Do you know why it was stopped? I assume you are referring to the checks that were being issued?

A Yes, sir.

Q Do you know why they were stopped?

A Because I wanted to pick it up again myself, sir.

Q I am sorry, I didn't understand.

A I said I wanted to pick it up again myself, sir.

Q You wanted to pick up what again yourself?

A The payments.

Q Oh, you mean you wanted to pick up the payments to your wife?

A I wanted to start paying her myself.

Q You were not paying her during this particular period of time?

A No, sir.

Q Were you on the same salary then that you are on now, with the local union?

A If I can qualify it I can answer you, sir.

Q Well, go ahead.

A I was, yes, sir, but I didn't draw a salary for quite a while. We was in a big strike that the International was supposed to have taken care of and didn't and I had to use money that was part of my salary to help pay them and I had to draw my back salary to make up for the months as the auditor figured out so --

Q (Interposing) The International mistreated you on that, too, didn't they?

A Well, I don't know, I don't think so, it could have been a legal interpretation of what they are supposed to do. They said under the constitution something, that's the excuse they used, I don't know.

Q So when was this that you didn't draw a salary?

A Oh, I went for a period of months sometimes without drawing.

Q Let's take the period of months. Was it the period of the month of September of 1963 when these checks

were issued, or October?

A It was nearly two years on and off that I didn't draw a salary, a year and something, I don't know the exact time.

Q Let's state for the record, was it in October of '63?

A I stated for the record, you heard what I said, sir.

Q Well, was it October, 1963?

A I am not positive, I would have to look at the records and see, I would have to look at the payroll records in the local and see, sir.

Q Was it any of the last six months of 1963?

A I said I would have to look at the payroll records to tell you, sir, or either call the auditor, he could probably tell me.

Q Now, would you remember whether or not you were getting a monthly check or how are you paid, monthly or weekly by the union?

A Weekly.

Q Weekly?

A When I got paid.

Q Excuse me.

A When I got paid, weekly.

Q When you got paid?

A Yes.
Q Were you getting a weekly check at the same time that your wife was receiving checks from the government?
A It's possible that I got some back checks but I was so far behind on my other stuff that I had to--, just about impossible to catch up on it.
Q Did you approach Mr. Grimsley about his making these payments to your wife or did he just voluntarily state to you that he would make these payments?
A I believe I said before, sir, it was in the occurrence of the time that I would have to be out of town that I was worried about the payments being made to her.
Q Yes. But did you approach Mr. Grimsley about it then or did he approach you about it?
A I don't know who mentioned it first, I imagine I mentioned it first that I had an outstanding obligation I was worried about and whether it would be taken care of or not and if I could further qualify the answer, sir, would you allow me to qualify my answer, sir?
Q I am going to let you try. Go ahead and talk until I stop you.
A Because at the time I wasn't sure I would get back to Baton Rouge, I wanted to be sure if I didn't get back that she was taken care of where she could eat the next few weeks.
Q You were very concerned about your wife and children, weren't you?

A I am very concerned about my wife but after three years there's not too much left for you to be concerned about.

Q But you had continually contributed sufficient funds for them to live on and you just wanted to be sure during that period that they were receiving the funds?

A I am very fond of my children, yes, sir.

Q Now, during the period of October, September, October of 1963, were you out of Baton Rouge during that period of time when these checks were being issued?

A I don't think I was out too much of that time, I could have been, I don't remember, I was out 60 or 70 days on and off somewhere along there that I am not positive of.

Q Sixty to seventy days?

A I believe that's what I said.

Q Could I ask where you were during those 60 or 70 days?

A It has been asked before but I will be glad to answer it.

Q Answer.

A Anywhere I thought I could hide at, I had a friend I could go to they wouldn't know I would be there, usually stayed in some motel from town to town, state to state.

Q You ever go to Cuba?

A Cuba where?

Q Cuba. Have you ever been in Cuba?

A Cuba where?

Q The island of Cuba, have you ever been there?

MR. NEAL: We object to this, Your Honor, objection, Your Honor.

MR. BRANSTETTER: I think it's a good question.

THE COURT: Well.

BY MR. BRANSTETTER:

Q Were you ever in Cuba?

THE WITNESS: Should I answer, sir?

THE COURT: Yes.

A Yes, sir, I went to a good night club over there and had a good time for one night.

Q They have pretty good night clubs?

A That was before they banned travel to Cuba, though, sir.

Q That was when?

A I don't know but I know it wasn't any hollering about Castro, the Communist, I remember him when they were sending around trying to collect donations to overthrow Batista, that was long--, there was no secret I went.

Q No, I didn't--

A (Interposing) I had a good time.

Q You were there in 1961, weren't you?

A I don't know but I can tell you where I went and I had a good time.

Q Let me ask you, were you in Cuba in 1961?

A Sir, I am not sure, they--, it has been so much written about it until I wouldn't know, I mean you all--, it has been blowed up so until you got me confused as when I went but I can tell you where I went, though.

MR. NEAL: Your Honor, we are going to object on the ground of expediency, Your Honor.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Do not answer this until the Court rules on it. Could I ask, and I ask the Court may I ask the witness if certain phone calls were not made from his local union to Cuba.

THE COURT: I am going to sustain the objection.

BY MR. BRANSTETTER:

Q You stated that you knew a Mr. Smith that was a polyograph expert of some sort.

A Sir, I didn't swear to what his name was, I understood that was it.

Q Well, some gentleman, O. K. I am not trying to--

A (Interposing) You can't.

Q I am sure I can't, Mr. Partin. I can't what?

A You can't make me lie.

Q I am sure. How many times did you see this Mr. Smith or whatever his name was?

MR. NEAL: Your Honor, we object to going into this as repetitious, it's remote.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q Did you see him in Washington?

MR. NEAL: Object.

Q Not the time, did you?

MR. NEAL: I object to the whole line of inquiry.

THE COURT: Well, overruled.

A I believe he was there, sir, because it was on a matter that pertained to something he was interested in.

MR. SILETS: Your Honor, we couldn't hear that answer, he's not--

THE COURT: (Interposing) He said he believed he saw him there, it is a matter in which he was interested in.

End 33A

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BY MR. BRANSTETTER:

Q In the time you had seen him previously was in Atlanta without asking what was done?

A I didn't say that.

Q Well--

A (Interposing) You made the statement. I didn't say that.

Q When was the time you saw him previously, I am trying to shorten in that method?

A I think it was in Baton Rouge.

Q Baton Rouge?

A Yes, sir.

Q Was this at the motel?

A No, sir, I don't think I said that was the first time.

THE COURT: I believe, gentlemen, we have covered that several times.

MR. BRANSTETTER: May it please the Court, I want to determine from this witness about the matters without going into them that the Court--that he has stated each time are not material to this case and I will abide the ruling of the Court but I want to find out up to the appropriate point what the witness has to say about it.

THE WITNESS: Well, sir, Mr. Smith would never have been interested in this case here. I can answer you

that way.

BY MR. BRANSTETTER:

Q That is your conclusion?

A He never questioned me about it.

MR. NEAL: Just a moment, your Honor, we object to this on repetition. I think your Honor has ruled on this.

THE COURT: Sustain the objection.

BY MR. BRANSTETTER:

Q The amount of money that was paid, did that--did you state to the government officials or Mr. Grimsley or others that that was the exact amount owed you?

MR. NEAL: Your Honor, he has asked and answered that. He said still some owing to him.

MR. BRANSTETTER: Now, may it please the Court--

THE COURT: (Interposing) I will allow him to answer. Proceed.

THE WITNESS: No, sir. I didn't know the exact amount. I thought it was more and still think it is more.

BY MR. BRANSTETTER:

Q Do you mean you think that--you didn't tell them how much money to pay?

A I told them about how much was--paid to what, sir?

Q What was your agreement with the government?

A Well, that ain't what you asked me.

Q With reference to pay, what was your agreement? Just state it.

A Your Honor, he didn't ask me that.

THE COURT: Tell what was your agreement.

BY MR. BRANSTETTER:

Q Tell what was your agreement with the government, tell what it was, the agreement.

A That they would pay the alimony, it isn't alimony, children support, this is my understanding.

Q Go ahead.

A On the other expenses I would have incurred if it was over they would give it to me. If it was under I would reimburse it to them, of course. I thought it was more. If they said it was less, if they had the figures, I would reimburse them for it.

Q Who did you have this agreement with? With whom did you make it?

A Sir, I think Mr. Grimsley is the main one I talked to about it. I think Mr. Sheridan spoke to me about it.

Q You have an understanding that you have stated rather clearly with whom did you make it and where were you when you made this agreement?

A I answered you before, sir.

MR. NEAL: Your Honor, he has gone into this.

Several have gone into it. We object.

THE COURT: Sustain the objection.

MR. HAGGERTY: I call your Honor's attention, it is after the hour of adjournment of 4:30.

THE COURT: Yes. Are you about through, Mr. Branstetter?

MR. BRANSTETTER: No, may it please the Court, I have some calls that I have, too, coming through that I would like to make.

THE COURT: All right. Ladies and gentlemen, we will excuse the jury at this time. Do not discuss the case or allow anyone to talk with you about it. Be back at nine o'clock in the morning.

MR. NEAL: Would your Honor stay on the bench momentarily?

THE COURT: Yes. Likewise, Mr. Partin--

(Thereupon, the jury of 12 and 4 alternates were excluded from the courtroom and the following proceedings were had, to-wit:)

THE COURT: (Interposing) Likewise, Mr. Partin, you will be excused at this time. Be back at nine o'clock in the morning. Do not discuss your testimony. Do not allow anyone to discuss your testimony with you.

MR. NEAL: Your Honor, may the witness stay just momentarily?

THE COURT: All right.

MR. NEAL: The witness has been on cross examination now, your Honor, for five days and the government counsel have been under direction of the Court not to talk to the witness. Could we have that list tonight for another matter? Surely this cross examination can't go on indefinitely, it has been five days now.

THE COURT: Well--

MR. NEAL: (Interposing) I don't want to make a big issue out of it.

THE COURT: He shouldn't talk with anyone about his testimony in this case or about any matter that he has testified about. All right. You may be excused, Mr. Partin.

(Thereupon, the Witness Partin was temporarily excused.)

THE COURT: All right. Just a moment. Just a moment, gentlemen. I have asked for a note.

Gentlemen, what defense counsel issued a subpoena on yesterday for Mrs. Partin? What defense counsel?

MR. BERKE: I think we did, your Honor.

THE COURT: And subpoenaed her to be here at nine o'clock this morning? What possible occasion could you have had to subpoena her to be here at nine o'clock this morning?

MR. BERKE: Well, if your Honor please, we

summoned her for that time, I think we would have a right to summons a witness that we might question the witness.

THE COURT: Yes, you have a right to summons a witness. I received a call late yesterday evening from Judge Gordon West, in Baton Rouge, a Federal Judge there, that this lady with five children, no way to take care of them had been served with a subpoena yesterday to be here at nine o'clock this morning.

End Tk 34
Tk 34A fls?

And that no funds were provided her to be here. And I couldn't imagine what possible purpose you could have for subpoenaing her to be here today. I could understand if you wanted to subpoena her to be here, but to have her here at 9:00 o'clock this morning when the cross examination of this witness was continuing, when the government case had not concluded, and there was no indication when it would conclude, the Court was at a loss as to why you would subpoena a woman under those circumstances to be here at 9:00 o'clock this morning.

MR. BERKE: If your Honor please, of course, I didn't issue the subpoena but it was issued in behalf of my client, and I will take whatever responsibility there is for it. But the statement, your Honor, that we did not tender her any funds must be some error there.

THE COURT: Well, there was a check for $90 tendered here at the marshal's office, but there was no funds down there and that woman was supposed to come up here overnight with no funds and leave five children. Surely there is some --

MR. BERKE: (Interposing) Well, we will give the funds to her, your Honor.

THE COURT: Let's not have witnesses under those circumstances report long in advance. The Court will give you time to have witnesses here, but not have them report

long in advance of any time you could possibly anticipate using them.

MR. BERKE: If your Honor please, your Honor could readily recognize in the situation here, we have to have this information from this lady here. We haven't had time to investigate this thing. And, of course, if Mr. Partin gets off --

THE COURT: (Interposing) The usual manner of doing that is to go interview the witness, not to issue a subpoena some place across the United States and tell them to be here at 9:00 o'clock this morning.

MR. BERKE: If your Honor please, I think your Honor could see that it would be almost impossible for counsel to go down to Baton Rouge, Louisiana, and be here in time for trial.

THE COURT: Well, you have a number of counsel. The other day there were six attorneys who are not participating in the trial who came and took the witness stand. It just doesn't seem reasonable to do that, but then I will give you time to get her here.

Let's not be subpoenaing witnesses long before --

MR. BERKE: (Interposing) Your Honor, we will have to reserve further cross examination because we would like to find out something about what this -- some evidence we don't want to disclose it right now, of course, I don't

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think the Court is requiring us to do that.

THE COURT: No, I'm not requiring you to do that.

MR. NEAL: Your Honor, Mr. Berke here has cross examined. We have cross examined for five days. Your Honor has a discretion to cut off this cross examination at some point.

THE COURT: Well, the only reason I'm bringing this up is I advised Judge West to advise her that she need not respond to the subpoena until such time as the Court further ordered. Now, when you need her and plan to use her, then the Court will instruct that she abide the subpoena and when you provide the per diem, and provide the transportation, but the Court is not going to allow process to be used like this to bring a witness up here when there is no intention of being able to use her at any time in the near future. And certainly it is not proper to use a subpoena to bring a witness up here just for the purpose of making an investigation. It would seem to the Court that is not a proper use of subpoena power.

Well, when you desire to have her here, for the purpose of using her as a witness, you will advise the Court. I will in turn advise Judge West and he will in turn advise her. In the meantime, make arrangements to get the proper funds there so that this lady can come here. All right.

End 34a
35 fls

MR. NEAL: I also advised defense counsel, Your Honor, we have other witnesses to go and in line with what Your Honor said I can't understand defense counsel subpoenaing a person to interview, using a court's subpoena to interview.

MR. BERKE: It's not exactly that, Your Honor, but Your Honor will be requiring us to give away our defense so we could tell you the reason we are having her down here. Of course, we will have to do it but I'd appreciate it if the Court wouldn't do that. We have already been followed enough already.

THE COURT: Oh, well, here was a woman that obviously you never intended to use today, you couldn't possibly use today, a woman with five children, looking after these five children and she was subpoenaed in order to be up here and it didn't seem that was quite appropriate. At any rate, let me know when you want her here.

MR. SILETS: Your Honor,--

THE COURT: Arrangements will be made to have her brought.

MR. SILETS: In the light of this discussion I would like to subpoena some witnesses on behalf of the defense and, of course, I haven't any idea how many more witnesses the government has.

Now, Mr. Neal has just indicated that he does

have additional witnesses. I would like to have some estimate of how long those witnesses would take so that we would know when we would get into our case so that I can issue the subpoenaes within reasonable time.

THE COURT: Yes. Do you have, does the government have any opinion?

MR. NEAL: Well, Your Honor, I have told Mr. Haggerty--, Mr. Haggerty told me last Friday, and I am sure now, Mr. Haggerty, I am sure you did the best job you could in advising me accurately so I am not criticizing Mr. Haggerty, but Mr. Haggerty told me last Friday they would end up Monday. I said, "Well, I think we would end up Tuesday--, Wednesday then."

Now I was also advised Mr. Branstetter was not going to cross examine and here he is cross examining, Your Honor.

MR. BRANSTETTER: Just--

MR. NEAL: (Interposing) Your Honor--

MR. BRANSTETTER: (Interposing) Excuse me.

MR. NEAL: We have been cross examining here for five days.

THE COURT: I assume that naturally that the length of the further testimony will depend upon the direct examination and the cross examination and you gentlemen are in better position to judge the length of the cross examination

than anyone else. I guess the government can estimate how long they think it might take to present the rest of their proof.

MR. NEAL: We have five or six more witnesses.

MR.SILETS: If we knew who the witnesses were we could make the estimate of cross examination but obviously we can't, we don't know that, but if we had an idea of what the direct examination would take, how long that would take, we would have some idea.

THE COURT: I believe this is as far as the Court can appropriately go.

MR. BRANSTETTER: I believe Mr. Neal must have misunderstood if he thought I had advised him I would not cross examine, I think there must have been a misunderstanding.

MR. SILETS: Your Honor, may I also correct the record as to one thing I heard Mr. Neal say four times. This man has not been cross examined five days. Most of the time since his testimony has begun in the last hours of last Tuesday have been taken up with out of court voir dire examinations on various motions, motions to suppress, and if I think you were to add up the time you would have perhaps a day and a half or two days at the most that he has actually been examined.

THE COURT: Well, the Court is well aware that we have been taking up a good deal of the time with motions and

with other matters. I have done the best I can to have the case tried and presented to the jury. We will continue to do that.

MR. SILETS: It is no reflection on the Court, Your Honor.

MR. NEAL: Could we get some estimate how long the cross examination of this witness will take so we can have witnesses available?

MR. BRANSTETTER: Now, may it please the Court, if this was an ordinary witness I would expect to cross examine him in fifteen minutes but with this witness answering like he has demonstrated here for some considerable period of time it may take all day, I don't know.

THE COURT: Do you think you will really get an answer?

MR. NEAL: I didn't have any more thought than the Court did.

MR. HOOKER: That's definite.

THE COURT: Let's adjourn court until nine o'clock tomorrow morning.

(Thereupon, at 4:45 o'clock p. m., court was adjourned until nine o'clock a. m., February 12, 1964.)

REPORTER'S CERTIFICATE

I, Fred B. Downing, Official Court Reporter for the United States District Court, for the Eastern District of Tennessee, Southern Division, at Chattanooga, Tennessee hereby certify that Richard Smith and John E. Hamlin, court reporters, in accordance with stipulation of counsel for the parties filed in this case, recorded by machine shorthand the proceedings had in open court in the above styled case on February 11, 1964; and that said proceedings were reduced to typewriting under my supervision; and that the foregoing transcript is a true and correct transcript of the said proceedings to the best of my knowledge.

This the 11th day of February, 1964.

Fred B. Downing

Official Court Reporter